

THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday), April 20, 2015

Assembly called to order at 2:29 p.m.

Mr. Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Norm Milz.

Almighty God, as we come to the beginning of another week of this legislative session, we thank You for what has been accomplished for the state of Nevada. But there is so much more to do.

Give us Your guidance as we turn our focus to the financing of the legislation we have approved and passed. May we give our serious attention to the fiscal issues that beset this state. Thank You for giving us the leadership in the chamber and the Senate. May we all work together not for our own advancement, but for the advancement and welfare of all of Nevada's citizens.

All these things we bring to You knowing You hear and care for us, in Jesus' name.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Paul Anderson moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 4, 6, 211, 227, 246, 325, 409, 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 Commerce and Labor, to which were referred Assembly Bills Nos. 85, 330, 336, 356, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDY KIRNER, *Chair*

Mr. Speaker:

Your Committee on Education, to which were referred Assembly Bills Nos. 205, 234, 328, 341, 394, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Education, to which were referred Assembly Bills Nos. 218, 321, 378, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MELISSA WOODBURY, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 20, 54, 106, 163, 280, 293, 312, 332, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which was referred Assembly Bill No. 34, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Government Affairs, to which were referred Assembly Bills Nos. 364, 445, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN C. ELLISON, *Chair*

Mr. Speaker:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 5, 200, 242, 268, 307, 308, 324, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Health and Human Services, to which was referred Assembly Bill No. 306, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES OSCARSON, *Chair*

Mr. Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 47, 113, 130, 193, 258, 281, 357, 433, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which were referred Assembly Bills Nos. 49, 68, 98, 128, 240, 244, 359, 371, 404, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which were referred Assembly Bills Nos. 239, 386, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

IRA HANSEN, *Chair*

Mr. Speaker:

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 60, 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 Legislative Operations and Elections, to which was referred Assembly Bill No. 253, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, without recommendation, and refer to the Committee on Ways and Means.

LYNN D. STEWART, *Chair*

Mr. Speaker:

Your Committee on Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 142, 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 Natural Resources, Agriculture, and Mining, to which was referred Assembly Bill No. 377, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ROBIN L. TITUS, *Chair*

Mr. Speaker:

Your Committee on Taxation, to which were referred Assembly Bills Nos. 17, 191, 366, 452, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEREK ARMSTRONG, *Chair*

Mr. Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 217, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Transportation, to which was referred Assembly Bill No. 383, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Transportation, to which was referred Assembly Bill No. 385, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Transportation, to which was referred Assembly Bill No. 450, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, without recommendation, and rerefer to the Committee on Ways and Means.

JIM WHEELER, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 17, 2015

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 6, 192, 208, 225, 260, 274, 419.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that the Assembly Bills Nos. 4, 5, 6, 17, 20, 34, 47, 49, 54, 60, 68, 85, 98, 106, 113, 128, 130, 142, 163, 191, 193, 200, 205, 211, 217, 218, 227, 234, 239, 240, 242, 244, 246, 253, 258, 268, 280, 281, 293, 306, 307, 308, 312, 321, 324, 325, 328, 330, 332, 336, 341, 356, 357, 359, 364, 366, 371, 377, 378, 383, 385, 386, 394, 404, 409, 433, 445, 450, and 452 just reported out of committee, be placed on the Second Reading File.

Motion carried

Assemblyman Paul Anderson moved that Assembly Bill No. 238 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Kirner moved that Assembly Bill No. 86 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Paul Anderson moved that Assembly Bill No. 321 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Paul Anderson moved that Assembly Bill No. 49 be taken from its position on the Second Reading File and placed at the bottom of the Second Reading File.

Motion carried.

NOTICE OF EXEMPTION

April 19, 2015

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bills Nos. 249 and 459.

CINDY JONES
Fiscal Analysis Division

April 20, 2015

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 380.

CINDY JONES
Fiscal Analysis Division

WAIVER OF JOINT STANDING RULES

A Waiver requested by Senator Roberson.

For: Senate Bill No. 108.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: April 17, 2015.

SENATOR MICHAEL ROBERSON
Senate Majority Leader

ASSEMBLYMAN JOHN HAMBRICK
Speaker of the Assembly

A Waiver requested by Senator Roberson.

For: Senate Bill No. 185.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: April 17, 2015.

SENATOR MICHAEL ROBERSON
Senate Majority Leader

ASSEMBLYMAN JOHN HAMBRICK
Speaker of the Assembly

A Waiver requested by Senator Roberson.

For: Senate Bill No. 374.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: April 17, 2015.

SENATOR MICHAEL ROBERSON
Senate Majority Leader

ASSEMBLYMAN JOHN HAMBRICK
Speaker of the Assembly

A Waiver requested by Senator Roberson.

For: Senate Bill No. 421.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).
Has been granted effective: April 17, 2015.

SENATOR MICHAEL ROBERSON
Senate Majority Leader

ASSEMBLYMAN JOHN HAMBRICK
Speaker of the Assembly

A Waiver requested by Senator Roberson.

For: Senate Bill No. 433.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: April 17, 2015.

SENATOR MICHAEL ROBERSON
Senate Majority Leader

ASSEMBLYMAN JOHN HAMBRICK
Speaker of the Assembly

A Waiver requested by Senator Roberson.

For: Senate Bill No. 434.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: April 17, 2015.

SENATOR MICHAEL ROBERSON
Senate Majority Leader

ASSEMBLYMAN JOHN HAMBRICK
Speaker of the Assembly

A Waiver requested by Senator Roberson.

For: Senate Bill No. 436.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: April 17, 2015.

SENATOR MICHAEL ROBERSON
Senate Majority Leader

ASSEMBLYMAN JOHN HAMBRICK
Speaker of the Assembly

A Waiver requested by Senator Roberson.

For: Senate Bill No. 439.

To Waive:

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: April 17, 2015.

SENATOR MICHAEL ROBERSON
Senate Majority Leader

ASSEMBLYMAN JOHN HAMBRICK
Speaker of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 6.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 192.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 208.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Education.

Motion carried.

Senate Bill No. 225.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 260.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 274.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senate Bill No. 419.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 177.

Bill read second time.

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

Amendment No. 222.

AN ACT relating to elections; prohibiting ~~it, with limited exception,~~ the name of ~~it~~ **an ineligible** candidate ~~who is not eligible to hold the office for which he or she is a candidate~~ from appearing on the ballot ~~it~~ **unless the period for changing the ballot has elapsed; providing certain remedies and penalties in preelection challenges to the qualifications of a candidate;**

prohibiting the filling of a vacancy in a nomination for ~~for a partisan or nonpartisan~~ office; ~~for~~ **under certain circumstances; amending the certain residency requirement requirements for candidates for office; requiring a; revising provisions governing the filing of a declaration or acceptance of candidacy; eliminating increasing the penalty for a candidate who files certain documents containing a false statement; requiring certain proofs of identity and residency when filing for candidacy; changing** the deadline for an elector to file ~~for a written challenge of~~ **certain preelection challenges to the qualifications of** a candidate; ~~requiring, under certain circumstances, a candidate who was found by a court to be ineligible to hold office to pay the attorney's fees and court costs of the elector who filed the challenge of candidacy; prohibiting~~ **providing that** a vote cast for ~~for~~ **an ineligible candidate who** is ~~is not eligible to hold the office for which he or she is a candidate from being counted~~ **a nullity and void** for the purposes of determining the outcome of an election; **prohibiting an ineligible candidate from demanding a recount, filing a contest of election or receiving a certificate of election; making conforming changes to the definition of "actual residence" for purposes of candidacy;** making various other changes relating to elections; ~~increasing certain~~ **providing** penalties; ~~providing a penalty;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under certain circumstances, existing law sets forth ~~processes~~ **procedures** for filling a vacancy in a nomination for a nonpartisan or partisan office ~~for~~ (NRS 293.165, 293.166, 293C.190) Under existing law, ~~for~~ **, except that** no changes may be made to the ballot after ~~the fourth Friday in June before the~~ **a statutorily-prescribed date preceding any** general election. If, after that date, a vacancy occurs in a nomination, the nominee's name must remain on the ballot for the general election and, if that person is elected, a vacancy **in the office** exists. (NRS 293.165 ~~for~~ **, 293.166, 293.368, 293C.190, 293C.370**) Further, under existing law, if a candidate whose name appears on a ballot is disqualified from entering upon the duties of an office or dies after the deadline for making changes to the ballot has passed, the Secretary of State and ~~county or city clerk, as applicable,~~ **local election officials** are required to post a sign at each polling place where the person's name will appear on the ballot notifying voters of the candidate's disqualification or death. (NRS 293.184, 293.302, 293C.1865, 293C.291)

~~Section 3 of this bill prohibits the filling of a vacancy in a nomination for a nonpartisan or partisan office.~~

This bill revises the legal rules, standards and procedures that apply to a person who is or becomes an ineligible candidate during an election. Section 1.5 of this bill defines the term "ineligible candidate" to mean a person who is a candidate for any office and who: (1) dies; (2) is adjudicated insane or mentally incompetent; (3) fails to meet any

qualification required for the office; or (4) is found by a court to be disqualified from entering upon the duties of the office.

In the absence of a statute prescribing a different rule, the general rule under the common law is that the votes cast for a deceased, disqualified or ineligible candidate are not treated as void but are counted in determining the outcome of the election with regard to the other candidates, which renders the election nugatory and prevents the election of the candidate who receives the next highest number of votes. (*Ingersoll v. Lamb*, 75 Nev. 1, 4 (1959)) Sections 1.7, 15, 18.3 and 26 of this bill abrogate the common-law rule and provide that any vote cast for an ineligible candidate is a nullity and void and must not be given any legal force or effect for the purposes of determining the outcome of the election. Sections 1.8 and 17.4-17.9 of this bill also provide that an ineligible candidate may not demand or receive a recount of the vote at the election or contest the results of the election.

Sections 2 and ~~{18}~~ 18.5 of this bill provide that if, after a person files a declaration of candidacy, the person dies, is adjudicated insane or mentally incompetent, or is found not to be eligible to hold the office for which he or she is a candidate, the person's ~~the~~ name of an ineligible candidate must not appear on the ballot at ~~{an}~~ any election unless the ~~{county or city clerk, as applicable, determines that there is not time to remove the name of the candidate from}~~ period for making changes on ~~the ballot~~ . In such a situation, the county or city clerk, as applicable, ~~{has elapsed. If the period has elapsed, local election officials must~~ provide notice to the voters ~~{(1) post a sign}~~ at each affected polling place ~~{(2) post a notice}~~ on or near each mechanical voting device ~~{at those polling places;}~~ and ~~{(3) place a sticker or other notice}~~ on or with each paper ballot and absent ballot that the ~~{person}~~ ineligible candidate is not eligible to take office and that any vote cast for ~~{that person will not be counted for purposes of determining the outcome of the election}~~

~~Sections 15 and 26 of this bill provide that a vote cast for a candidate who is not eligible to hold the office for which he or she is a candidate may not be counted in}~~ the ineligible candidate will be a nullity and void and will not be given any legal force or effect for the purposes of ~~determining the outcome of the election.~~

Under existing law, there are several different types of preelection court actions that may be brought to challenge a candidate on grounds that the candidate fails to meet any qualification required for the office, including actions for a declaratory judgment or a writ of mandamus. (NRS 281.050, 293.182, 293C.186; *DeStefano v. Berkus*, 121 Nev. 627, 628-31 (2005); *Child v. Lomax*, 124 Nev. 600, 604-05 (2008)) Section 2.5 of this bill provides that in any preelection action where the court finds that a candidate fails to meet any qualification required for the office: (1) the candidate becomes an ineligible candidate and local election officials must take appropriate action to remove the candidate's name from the ballot

or provide the required notice to voters; (2) the candidate is disqualified from taking office; and (3) the court may order the candidate to pay the attorney's fees and costs of the party who brought the action, including the Attorney General or a district attorney or city attorney.

Under existing law, certain state and local officials must issue a certificate of election to the candidate receiving the highest number of votes for an office as official recognition of the candidate's election to the office. (NRS 4.020, 218A.210, 245.010, 258.010, 267.050, 283.130, 293.034, 293.393-293.397, 293.435, 293C.387, 293C.395, 386.260, 539.157; Caliente City Charter § 5.100; Carlin City Charter § 5.090; Carson City Charter § 5.100; Elko City Charter § 5.090; Henderson City Charter § 5.100; Las Vegas City Charter § 5.100; North Las Vegas City Charter § 5.080; Reno City Charter § 5.100; Sparks City Charter § 5.100; Wells City Charter § 5.090; Yerington City Charter § 5.090) Sections 3.7, 17.1-17.3, 17.9, 28-28.4, 29.1, 29.5, 29.6, 29.8, 31, 36, 40, 46, 49, 52, 54, 58, 62, 66, 69, 72, 75 and 78 of this bill provide that if the name of an ineligible candidate could not be removed from the ballot, a certificate of election must not be issued to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.

Existing law sets forth procedures for filling certain vacancies in a nomination for a nonpartisan or partisan office that occur before a statutorily-prescribed date preceding any general election. (NRS 293.165, 293.166, 293C.190) Section 3 of this bill prohibits a vacancy in a nomination for a partisan office from being filled if the vacancy occurs because the candidate fails to meet any qualification required for the office or is found by a court to be disqualified from taking office, except that the prohibition does not apply to such a vacancy occurring before certain special elections. If a vacancy in a nomination for a nonpartisan or partisan office occurs for certain other reasons, sections 4, 4.5 and 22.5 of this bill allow such a vacancy to be filled in the manner provided by existing law before the statutorily-prescribed date preceding the general election.

Under existing law, the Legislature may enact statutory qualifications to be a candidate for an elective office which are in addition to any constitutional qualifications required for the office. (*Mengelkamp v. List*, 88 Nev. 542, 544-45 (1972); *Riter v. Douglass*, 32 Nev. 400, 435-36 (1910)) Such additional statutory qualifications may include residency requirements, and both the United States Supreme Court and the Nevada Supreme Court have upheld residency requirements that require a candidate to be a state resident for 2 or more years. (*Clements v. Fashing*, 457 U.S. 957, 967-68 (1982) (explaining that the Court upheld New Hampshire's 7-year state residency requirement for gubernatorial candidates when it summarily affirmed the lower court's decision in *Chimento v. Stark*, 353 F. Supp. 1211 (D.N.H. 1973), summarily *aff'd*, 414 U.S. 802 (1973)); *Schaefer v. Eighth Jud. Dist. Ct.*, No. 65361 (Nev. Apr.

14, 2014) (upholding Nevada's 2-year state residency requirement for State Controller candidates in NRS 227.010))

Existing law sets forth certain residency requirements for candidates. ~~{A}~~ **In particular, a** candidate must actually, as opposed to constructively, reside in the district to which the office pertains for at least 30 days preceding the date of the close of filing for candidacy. **(NRS 293.1755, 293C.200)** Additionally, a candidate for election **or appointment** to the Legislature must be an actual, as opposed to constructive, resident of this State for 1 year preceding the person's election ~~{1}~~ **or appointment.** ~~(NRS 218A.200) {293.1755, 293C.200})~~ **Sections 6 and 23** of this bill provide that all candidates must be an actual resident of the district to which the office pertains for at least ~~{1 year}~~ **180 days** preceding the date of the close of filing for a candidacy. **Section 29** of this bill requires that a candidate for election or appointment to the Legislature be an actual resident of this State for ~~{5}~~ **2** years preceding the person's election or appointment.

Existing law: (1) requires a ~~{person}~~ **candidate** to file a declaration or acceptance of candidacy before his or her name may appear on a ballot; and (2) provides that ~~{it is a gross misdemeanor to}~~ **a candidate who** knowingly and willfully ~~{file}~~ **files** a declaration or acceptance of candidacy which contains a false statement ~~{1}~~ **regarding residency is guilty of a gross misdemeanor.** ~~(NRS 293.1755, 293.177, 293C.185, 293C.200) {Sections 7 and 20 of this bill require the filing officer to verify the accuracy of all information contained in the person's declaration or acceptance of candidacy pursuant to the procedure set forth in regulations adopted by the Secretary of State.} Sections 6, 7, 20 and 23 of this bill {increase the penalty for} provide that a candidate who~~ knowingly and willfully ~~{filing}~~ **files** a declaration or acceptance of candidacy which contains a false statement ~~{to}~~ **is guilty of** a category ~~{D}~~ **E** felony.

Existing law requires a candidate for **election or appointment to** the Legislature to **meet certain qualifications for the office.** ~~(NRS 218A.200) A candidate for election to the Legislature must also file a declaration of residency~~ with his or her declaration **or acceptance** of candidacy. ~~{a declaration of residency.} (NRS 293.181) {Section} Sections 8 and 29~~ of this bill ~~{provides}~~ **provide** that any ~~{person}~~ **such candidate** who knowingly and willfully files **a declaration or acceptance of candidacy,** a declaration of residency **or an application for appointment** which contains a false statement is guilty of a category ~~{D}~~ **E** felony.

Under existing law, a person who receives a certificate of election or appointment to office as a Legislator must take and subscribe to the official oath before taking office. (NRS 218A.220) Section 29.2 of this bill prohibits a person from taking and subscribing to the official oath as a Legislator if, after the person files a declaration or acceptance of candidacy and on or before the date of the general election, a court finds that the person is an ineligible candidate because the person fails to meet any qualification required for the office.

Before the Assembly meets for each regular session, existing law requires the Secretary of State to make out a roll from the election returns of the persons who received the highest number of votes to be elected as members of the Assembly, and the members whose names appear upon the roll must be allowed to participate in the organization of the Assembly. (NRS 218A.400) Section 29.4 of this bill provides that if the name of an ineligible candidate for office as a member of the Assembly could not be removed from the ballot, the Secretary of State shall not include the ineligible candidate upon the roll of the persons elected as members of the Assembly and the name of the ineligible candidate must not appear upon the roll regardless of the number of votes cast for the ineligible candidate that are a nullity and void.

Existing law authorizes an elector to file a written challenge to a ~~person's candidacy~~ candidate's qualifications not later than 5 working days after the last day for ~~to a person~~ the candidate to formally withdraw his or her candidacy. Depending on the state or local office being sought by the candidate, the Attorney General or the appropriate district attorney or city attorney must review the challenge and, if he or she determines that probable cause exists to support the challenge, must bring a preelection court action challenging the candidate's qualifications within a statutorily-prescribed period. (NRS 293.182, 293C.186 ~~);~~ ; Williams v. Clark County Dist. Att'y, 118 Nev. 473, 477-79 (2002) (interpreting NRS 293.182 to permit an elector to file a written challenge not later than 5 working days after the last day for the candidate to formally withdraw his or her candidacy)) Sections 9 and 21 of this bill ~~eliminate~~ change the deadline for ~~filings~~ an elector to file such a written challenge to ~~to a person's candidacy~~. Sections 9 and 21 also authorize, under certain circumstances, a court to order a challenged person to pay the attorney's fees and court costs of ~~the elector who filed the challenge.~~ the last Monday immediately preceding the first day of early voting for any general election.

Existing law defines the term "actual residence" to mean the place where a candidate is legally domiciled and maintains a permanent habitation, and when a candidate maintains more than one place of permanent habitation, the place designated by the candidate as his or her principal permanent habitation is deemed to be the candidate's actual residence. (NRS 281.050) The Nevada Supreme Court has held that the place designated by the candidate as his or her principal permanent habitation must be the place where the candidate actually resides and is legally domiciled in order for the candidate to be eligible to the office. (Williams v. Clark County Dist. Att'y, 118 Nev. 473, 484-86 (2002); Chachas v. Miller, 120 Nev. 51, 53-56 (2004)) Section 30 of this bill amends existing law to reflect the Supreme Court's holding.

The remaining sections of this bill make conforming changes to carry out the revisions to existing law.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~1.2 and 1.5~~ **1.5 to 3**, **inclusive**, of this act.

Sec. 1.5. "Ineligible candidate" means a person who is a candidate for any office and who:

- 1. Dies;**
- 2. Is adjudicated insane or mentally incompetent;**
- 3. Fails to meet any qualification required for the office pursuant to the Constitution or laws of this State; or**
- 4. Is found by a court of competent jurisdiction to be disqualified from entering upon the duties of the office pursuant to the Constitution or laws of this State.**

Sec. 1.7. 1. Notwithstanding any other provision of law, any vote cast for an ineligible candidate is a nullity and void and must not be given any legal force or effect for the purposes of determining the outcome of a primary election, general election or special election or any other election.

2. The provisions of this section are intended to abrogate any principle or rule of the common law to the contrary.

Sec. 1.8. A person who is or becomes an ineligible candidate may not:

1. Demand or receive a recount of the vote for the office for which he or she is an ineligible candidate pursuant to NRS 293.400 to 293.405, inclusive;
or

2. Contest the election for the office for which he or she is an ineligible candidate pursuant to NRS 293.407 to 293.435, inclusive.

Sec. 2. 1. ~~If, after a person files a declaration of candidacy, the person dies, is adjudicated insane or mentally incompetent, or is found not to be eligible to hold the office for which he or she is a candidate, except~~ Except as otherwise provided in ~~subsection 2,~~ this section, the ~~person's~~ name of a person who is or becomes an ineligible candidate must not appear on the ballot at a primary election, general election or special election ~~or~~ **or any other election.**

2. If a person is or becomes an ineligible candidate, the county clerk shall remove the name of the person from the ballot, except that no changes may be made on the ballot pursuant to this section for:

(a) A primary election after 5 p.m. on the first Monday in April of the year in which the primary election is held.

(b) A general election after 5 p.m. on the last Friday in July of the year in which the general election is held.

(c) A special election or any other election after 5 p.m. on the last day prescribed by the Secretary of State or the county clerk, as applicable, for making changes on the ballot for that election.

3. If the period for making changes on the ballot has elapsed pursuant to this section and, for that reason, the county clerk ~~determines that there is~~

~~not time to~~ cannot remove the name of the person who is or becomes an ineligible candidate from the ballot, the county clerk ~~must~~ shall:

(a) At each polling place where the person's name will appear on the ballot, including, without limitation, a polling place for early voting:

(1) Post a sign informing voters that the person is not eligible to enter upon the duties of the office and that any vote cast for the person will be a nullity and void and will not be ~~counted~~ given any legal force or effect for the purposes of determining the outcome of the election;

(2) Place a notice on or near each mechanical recording device informing a voter who uses the device that the person is not eligible to enter upon the duties of the office and that any vote cast for the person will be a nullity and void and will not be ~~counted~~ given any legal force or effect for the purposes of determining the outcome of the election; and

(3) If paper ballots are used, ~~place a sticker or other~~ include a notice on or with each paper ballot informing a voter who uses the paper ballot that the person is not eligible to enter upon the duties of the office and that any vote cast for the person will be a nullity and void and will not be ~~counted~~ given any legal force or effect for the purposes of determining the outcome of the election ~~;~~ ; and

(b) If the absent ballots have not been distributed ~~before the person died, was adjudicated insane or mentally incompetent, or was found not to be eligible to hold the office for which he or she is a candidate,~~ by the county clerk ~~must place a sticker or other~~ , include a notice on or with each absent ballot informing a voter who uses the absent ballot that the person is not eligible to enter upon the duties of the office and that any vote cast for the person will be a nullity and void and will not be ~~counted~~ given any legal force or effect for the purposes of determining the outcome of the election.

Sec. 2.5. 1. In addition to any other remedy or penalty provided by law, if a court of competent jurisdiction finds in any preelection action that a person who is a candidate for any office fails to meet any qualification required for the office pursuant to the Constitution or laws of this State:

(a) The person is an ineligible candidate, and the county clerk or city clerk, as applicable, shall take appropriate action regarding the ineligible candidate pursuant to section 2 or 18.5 of this act;

(b) The person is disqualified from entering upon the duties of the office for which he or she filed a declaration of candidacy or acceptance of candidacy; and

(c) The court may order the person to pay the reasonable attorney's fees and costs of the party who brought the action, including, without limitation, the Attorney General or a district attorney or city attorney.

2. The provisions of this section apply to any preelection action brought to challenge a person who is a candidate for any office on the grounds that the person is an ineligible candidate because the person fails to meet any qualification required for the office pursuant to the Constitution or laws of

this State, including, without limitation, any action brought pursuant to NRS 281.050, 293.182 or 293C.186 or any action brought for:

- (a) Declaratory or injunctive relief pursuant to chapter 30 or 33 of NRS;
- (b) Writ relief pursuant to chapter 34 of NRS; or
- (c) Any other legal or equitable relief.

Sec. 3. 1. ~~[(A)] Except as otherwise provided in this section, a vacancy occurring [for any reason] in a major or minor political party nomination for a partisan [or nonpartisan] office may not be filled [~~

~~2. As used in this section, "reason" includes, without limitation:~~

- ~~(a) The death of a candidate.~~
- ~~(b) The adjudication of a candidate as insane or mentally incompetent.~~
- ~~(c) A finding] by the party if the vacancy occurs because the candidate who is the party's nominee:~~

(a) Fails to meet any qualification required for the office pursuant to the Constitution or laws of this State; or

(b) Is found by a court of competent jurisdiction [that a candidate is] to be disqualified from entering upon the duties of the office [for which he or she is a candidate.] pursuant to the Constitution or laws of this State.

2. The provisions of this section do not apply to a vacancy occurring in a major or minor political party nomination for a partisan office at a special election if no primary election is held to choose the candidate who is the party's nominee before the special election.

Sec. 3.5. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, and section 1.5 of this act have the meanings ascribed to them in those sections.

Sec. 3.7. NRS 293.034 is hereby amended to read as follows:

293.034 "Certificate of election" means a certificate prepared by the county or city clerk or Governor, as the case may be, for the person having the highest number of votes for any district, county, township, city, state or statewide office as official recognition of the person's election to office ~~[-], except that~~ if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 or 18.5 of this act, such a certificate must not be prepared for the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.

Sec. 3.8. NRS 293.042 is hereby amended to read as follows:

293.042 "Contest" means an adversary proceeding between a candidate for a public office who has received the greatest number of votes and any other candidate for that office or, in certain cases, any registered voter of the appropriate political subdivision, for the purpose of determining the validity of an election ~~[-], except that a person who is or becomes an ineligible candidate may not contest the election for the office for which he or she is~~ an ineligible candidate pursuant to section 1.8 of this act.

Sec. 4. NRS 293.165 is hereby amended to read as follows:

293.165 1. ~~{Except as otherwise provided in NRS 293.166, a vacancy occurring in a major or minor political party nomination for a partisan office may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party or by the executive committee of the minor political party subject to the provisions of subsections 3, 4 and 5.~~

~~—2.} A vacancy occurring in a nonpartisan office or nomination for a nonpartisan office after the close of filing and before 5 p.m. of the fourth Friday in June of the year in which the general election is held must be filled by the person who receives or received the next highest vote for the nomination in the primary election if a primary election was held for that nonpartisan office. If no primary election was held for that nonpartisan office or if there was not more than one person who was seeking the nonpartisan nomination in the primary election, a person may become a candidate for the nonpartisan office at the general election if the person files a declaration of candidacy or acceptance of candidacy, and pays the fee required by NRS 293.193, on or after 8 a.m. on the third Monday in June and before 5 p.m. on the fourth Friday in June.~~

~~{3. If a vacancy occurs in a major political party nomination for a partisan office after the primary election and before 5 p.m. on the fourth Friday in June of the year in which the general election is held and:~~

~~—(a) The vacancy occurs because the nominee dies or is adjudicated insane or mentally incompetent, the vacancy may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party.~~

~~—(b) The vacancy occurs for a reason other than the reasons described in paragraph (a), the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists.~~

~~—4. No}~~

2. Except as otherwise provided in section 2 of this act, no change in a nomination for a nonpartisan office may be made on the ballot for the general election after 5 p.m. on the fourth Friday in June of the year in which the general election is held ~~{ If, }~~, and no vacancy in a nomination for a nonpartisan office may be filled after that time and date . {:

~~—(a) A nominee dies or is adjudicated insane or mentally incompetent; or~~

~~—(b) A vacancy in the nomination is otherwise created,~~

~~the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists.~~

~~—5. All designations provided for in this section must be filed on or before 5 p.m. on the fourth Friday in June of the year in which the general election is held. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.}~~

Sec. 4.5. NRS 293.166 is hereby amended to read as follows:

293.166 1. Except as otherwise provided in this section and sections 2 and 3 of this act:

(a) A vacancy occurring in a major or minor political party nomination for a partisan office, other than an office described in paragraph (b), may be filled by a candidate who is designated by:

(1) The party central committee of the county or State, as the case may be, of the major political party; or

(2) The executive committee of the minor political party.

(b) A vacancy occurring in a major political party nomination for the office of State Senator, Assemblyman or Assemblywoman from a legislative district comprising more than one county may be filled as follows. ~~It, subject to the provisions of subsections 2, 3 and 4,~~ The county commissioners of each county, all or part of which is included within the legislative district, shall meet to appoint a person who is of the same political party as the former nominee and who actually, as opposed to constructively, resides in the district to fill the vacancy, with the chair of the board of county commissioners of the county whose population residing within the district is the greatest presiding. Each board of county commissioners shall first meet separately and determine the single candidate it will nominate to fill the vacancy. Then, the boards shall meet jointly and the chairs on behalf of the boards shall cast a proportionate number of votes according to the percent, rounded to the nearest whole percent, which the population of its county is of the population of the entire district. Populations must be determined by the last decennial census or special census conducted by the Bureau of the Census of the United States Department of Commerce. The person who receives a plurality of these votes is appointed to fill the vacancy. If no person receives a plurality of the votes, the boards of county commissioners of the respective counties shall each as a group select one candidate, and the nominee must be chosen by drawing lots among the persons so selected.

2. If a vacancy occurs in a major political party nomination for ~~the office of State Senator, Assemblyman or Assemblywoman from a legislative district comprising more than one county,~~ a partisan office after the primary election and before 5 p.m. on the fourth Friday in June of the year in which the general election is held and:

(a) The vacancy occurs because the nominee dies or is adjudicated insane or mentally incompetent, the vacancy may be filled pursuant to the provisions of subsection 1.

(b) The vacancy occurs for a reason other than the reasons described in paragraph (a), the vacancy may not be filled pursuant to the provisions of subsection 1, and the nominee's name must ~~remain on~~ be removed from the ballot for the general election. ~~and, if elected, a vacancy exists.~~

3. ~~No~~ Except as otherwise provided in sections 2 and 3 of this act, no change in a major or minor political party nomination for a partisan office may be made on the ballot for the general election after 5 p.m. on the fourth Friday in June of the year in which the general election is held ~~if it~~, and no

vacancy in a major or minor political party nomination for a partisan office may be filled after that time and date. ~~It~~

~~— (a) A nominee dies or is adjudicated insane or mentally incompetent; or~~

~~— (b) A vacancy in the nomination is otherwise created,~~

~~→ the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists.]~~

4. The designation of a ~~[nominee]~~ **candidate to fill a vacancy** pursuant to this section must be filed ~~[with the Secretary of State]~~ on or before 5 p.m. on the fourth Friday in June of the year in which the general election is held, and the statutory filing fee must be paid ~~[with]~~ **and an acceptance of** the designation. ~~[It]~~ **must be filed on or before 5 p.m. on the date the designation is filed.**

Sec. 5. NRS 293.1715 is hereby amended to read as follows:

293.1715 1. The names of the candidates for partisan office of a minor political party must not appear on the ballot for a primary election.

2. ~~[The]~~ **Except as otherwise provided in sections 2 and 3 of this act, the** names of the candidates for partisan office of a minor political party must be placed on the ballot for the general election if the minor political party is qualified. To qualify as a minor political party, the minor political party must have filed a certificate of existence and be organized pursuant to NRS 293.171, must have filed a list of its candidates for partisan office pursuant to the provisions of NRS 293.1725 with the Secretary of State and:

(a) At the last preceding general election, the minor political party must have polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;

(b) On January 1 preceding a primary election, the minor political party must have been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or

(c) Not later than the third Friday in May preceding the general election, must file a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

3. The name of only one candidate of each minor political party for each partisan office may appear on the ballot for a general election.

4. A minor political party must file a copy of the petition required by paragraph (c) of subsection 2 with the Secretary of State before the petition may be circulated for signatures.

Sec. 6. NRS 293.1755 is hereby amended to read as follows:

293.1755 1. In addition to any other requirement provided by law, no person may be a candidate for any office unless, for at least ~~the 130~~ **180 days** ~~[1 year]~~ immediately preceding the date of the close of filing of declarations of candidacy or acceptances of candidacy for the office which the person seeks,

the person has, in accordance with NRS 281.050, actually, as opposed to constructively, resided in the State, district, county, township or other area prescribed by law to which the office pertains and, if elected, over which he or she will have jurisdiction or will represent.

2. Any person who knowingly and willfully files ~~an acceptance of candidacy or~~ a declaration of candidacy or acceptance of candidacy which contains a false statement ~~in this respect~~ regarding the person's residency in violation of this section is guilty of a ~~gross misdemeanor~~.

~~3. The provisions of this section do not apply to candidates for the office of district attorney.~~ category ~~D~~ E felony ~~1~~ and shall be punished as provided in NRS 193.130.

Sec. 7. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, 293.166 and section 2 of this act, a ~~PA~~ name may not be printed on a ballot to be used at a primary election unless the person ~~is~~

~~(a) Person~~ named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

~~(a) (1)~~ For a candidate for judicial office, the first Monday in January of the year in which the election is to be held ~~nor~~ and not later than 5 p.m. on the second Friday after the first Monday in January; and

~~(b) (2)~~ For all other candidates, the first Monday in March of the year in which the election is to be held ~~nor~~ and not later than 5 p.m. on the second Friday after the first Monday in March. ~~is and~~

~~(b) Filing officer has verified the accuracy of all information contained in the person's declaration of candidacy or acceptance of candidacy pursuant to the procedure set forth in regulations adopted by the Secretary of State.~~

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of.....

For the purpose of having my name placed on the official ballot as a candidate for the Party nomination for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence, in accordance with NRS 281.050, in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least ~~30~~ 180 days ~~1 year~~

immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is; and the address at which I receive mail, if different than my residence, is; that I am registered as a member of the Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since December 31 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this day of the month of of the year

.....
Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of

....., State of Nevada; that my actual, as opposed to constructive, residence, ***in accordance with NRS 281.050***, in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least ~~[30] 180 days~~ ~~[1 year]~~ immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this day of the month of of the year

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if ~~[or]~~ ***the candidate fails to comply with the following:***

(a) The ~~candidate shall not list the~~ candidate's address ~~[is listed]~~ as a post office box unless a street address has not been assigned to his or her residence; ~~[or]~~ ***and***

(b) The candidate ~~[does not]~~ ***shall*** present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; ~~[or]~~ ***and***

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

- (a) May not be withheld from the public; and
- (b) Must not contain the social security number, ~~for~~ driver's license or identification card number or account number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the ~~filing officer~~ Secretary of State receives credible evidence indicating that a candidate ~~has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction,~~ **does not meet any qualification required for the office pursuant to the Constitution or laws of this State,** the ~~filing officer~~ Secretary of State shall:

(a) ~~May conduct~~ **Conduct** an investigation to determine whether the candidate ~~has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction;~~ **is eligible to hold the office;** and

(b) ~~Shall transmit~~ **Transmit** the credible evidence and the findings from such investigation to ~~the~~ :

(1) The Attorney General, ~~if the filing officer~~ for the candidate is the Secretary of State, ~~or to the~~ ; **or**

(2) The appropriate district attorney, ~~if the filing officer~~ for the candidate is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. ~~If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the~~

office for which the candidate filed the declaration of candidacy or acceptance of candidacy.]

8. Any person who knowingly and willfully files a declaration of candidacy or acceptance of candidacy which contains a false statement in violation of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 8. NRS 293.181 is hereby amended to read as follows:

293.181 1. A candidate for the office of State Senator, Assemblyman or Assemblywoman must execute and file with his or her declaration of candidacy or acceptance of candidacy a declaration of residency which must be in substantially the following form:

I, the undersigned, do swear or affirm under penalty of perjury that ~~I have been a citizen resident of this State~~ as required by NRS 218A.200 ~~and~~, **I will** have actually, as opposed to constructively, **been a citizen resident of this State and** resided at the following residence or residences ~~[since November 1 of the preceding year]~~, **in accordance with NRS 281.050, for the ~~5~~ 2 years immediately preceding the ~~day~~ date of the general election:**

..... Street Address	 Street Address
..... City or Town	 City or Town
..... State	 State
From To Dates of Residency	From To Dates of Residency
..... Street Address	 Street Address
..... City or Town	 City or Town
..... State	 State
From To Dates of Residency	From To Dates of Residency

(Attach additional sheet or sheets of residences as necessary)

2. Each address of a candidate which must be included in the declaration of residency pursuant to subsection 1 must be the street address of the residence where the candidate actually, as opposed to constructively, resided or resides in accordance with NRS 281.050, if one has been assigned. The declaration of residency must not be accepted for filing if any of the

candidate's addresses are listed as a post office box unless a street address has not been assigned to the residence.

3. Any person who knowingly and willfully files a declaration of residency ~~[pursuant to this section]~~ which contains a false statement in violation of this section is guilty of a category ~~FD~~ E felony ~~FF~~ and shall be punished as provided in NRS 193.130.

Sec. 9. NRS 293.182 is hereby amended to read as follows:

293.182 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than 5 [days after] p.m. on the last [day the person may withdraw his or her candidacy] Monday immediately preceding the first day of the period of early voting by personal appearance for the general election pursuant to NRS ~~[293.202,] 293.3568,~~ an elector may file with the filing officer for the office a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or ~~[a statute] laws of this State . [, including, without limitation, a requirement concerning age or residency. laws of this State.]~~ Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and ~~[court] costs of the [challenged person.]~~ **person who is being challenged.**

2. A challenge filed pursuant to subsection 1 must:

- (a) Indicate each qualification the person fails to meet;
- (b) Have attached all documentation and evidence supporting the challenge;

and

(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1:

(a) The Secretary of State shall immediately transmit the challenge to the Attorney General.

(b) A filing officer other than the Secretary of State shall immediately transmit the challenge to the district attorney.

4. If the Attorney General or district attorney determines that probable cause exists to support the challenge, the Attorney General or district attorney shall , not later than 5 working days after receiving the challenge, ~~[immediately]~~ petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet

any qualification required for the office pursuant to the Constitution or ~~the~~ ~~statute~~ ~~laws~~ of this State, or if the person fails to appear at the hearing. ~~It~~

~~— (a) The~~ ~~Except as otherwise provided in this paragraph, the name of the~~ ~~person must not appear on any ballot for the election for the office for which~~ ~~the person filed the declaration of candidacy or acceptance of candidacy; and~~ ~~If there is not time to remove the person's name from the ballot, no vote cast~~ ~~for the person may be counted for purposes of determining the outcome of~~ ~~the election and the county clerk must comply with the provisions of~~ ~~subsection 2 of section 2 of this act.~~

~~— (b) The~~ ~~, the~~ ~~person is~~ ~~disqualified from entering upon the duties of the~~ ~~office for which he or she filed the declaration of candidacy or acceptance of~~ ~~candidacy.~~

~~— (c) The court may order that the challenged person pay the attorney's fees~~ ~~and court costs of the elector who filed the challenge.~~ an ineligible candidate and is subject to the provisions of section 2.5 of this act.

6. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and ~~court~~ costs of the ~~challenged person.~~ person who was challenged.

Sec. 10. NRS 293.184 is hereby amended to read as follows:

293.184 ~~1.~~ In addition to any other remedy or penalty provided by law, if a person knowingly and willfully files a declaration of candidacy or acceptance of candidacy ~~knowing that the declaration of candidacy or~~ ~~acceptance of candidacy~~ which contains a false statement:

~~— (a) Except as otherwise provided in NRS 293.165 and 293.166, the~~ ~~The~~ ~~name of the person must not appear on any ballot for the election for which~~ ~~the person filed the declaration of candidacy or acceptance of candidacy; and~~

~~— (b) 1. The person is an ineligible candidate, and the county clerk shall~~ take appropriate action regarding the ineligible candidate pursuant to section 2 of this act; and

2. The person is disqualified from entering upon the duties of the office for which he or she ~~was a candidate.~~

~~— 2. If the name of a person who is disqualified from entering upon the duties~~ ~~of an office pursuant to subsection 1 appears on a ballot for the election is~~ ~~disqualified because there is not time to remove the person's name from the~~ ~~ballot, the deadline set forth in NRS 293.165 and 293.166 for making changes~~ ~~to the ballot has passed, the Secretary of State and county clerk must post a~~ ~~sign at each polling place where the person's name will appear on the ballot~~ ~~informing voters that the person is disqualified from entering upon the duties~~ ~~of office. comply with the provisions of subsection 2 of section 2 of this act.~~ filed the declaration of candidacy or acceptance of candidacy.

Sec. 10.3. NRS 293.200 is hereby amended to read as follows:

293.200 1. An independent candidate for partisan office must file with the appropriate filing officer as set forth in NRS 293.185:

(a) A copy of the petition of candidacy that he or she intends to subsequently circulate for signatures. The copy must be filed not earlier than the January 2 preceding the date of the election and not later than 25 working days before the last day to file the petition pursuant to subsection 4. The copy of the petition must be filed with the appropriate filing officer before the petition may be circulated for signatures.

(b) Either of the following:

(1) A petition of candidacy signed by a number of registered voters equal to at least 1 percent of the total number of ballots cast in:

(I) This State for that office at the last preceding general election in which a person was elected to that office, if the office is a statewide office;

(II) The county for that office at the last preceding general election in which a person was elected to that office, if the office is a county office; or

(III) The district for that office at the last preceding general election in which a person was elected to that office, if the office is a district office.

(2) A petition of candidacy signed by 250 registered voters if the candidate is a candidate for statewide office, or signed by 100 registered voters if the candidate is a candidate for any office other than a statewide office.

2. The petition may consist of more than one document. Each document must bear the name of the county in which it was circulated, and only registered voters of that county may sign the document. If the office is not a statewide office, only the registered voters of the county, district or municipality in question may sign the document. The documents that are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition pursuant to subsection 4. Each person who signs the petition shall add to his or her signature the address of the place at which the person actually resides, the date that he or she signs the petition and the name of the county where he or she is registered to vote. The person who circulates each document of the petition shall sign an affidavit attesting that the signatures on the document are genuine to the best of his or her knowledge and belief and were signed in his or her presence by persons registered to vote in that county.

3. The petition of candidacy may state the principle, if any, which the person qualified represents.

4. Petitions of candidacy must be filed not earlier than the first Monday in March preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in March.

5. No petition of candidacy may contain the name of more than one candidate for each office to be filled.

6. A person may not file as an independent candidate if he or she is proposing to run as the candidate of a political party.

7. ~~The~~ **Except as otherwise provided in section 2 of this act, the** names of independent candidates must be placed on the general election ballot and must not appear on the primary election ballot.

8. If the candidacy of any person seeking to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in March. Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in March.

9. Any challenge pursuant to subsection 8 must be filed with:

(a) The First Judicial District Court if the petition of candidacy was filed with the Secretary of State.

(b) The district court for the county where the petition of candidacy was filed if the petition was filed with a county clerk.

10. An independent candidate for partisan office must file a declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the first Monday in March of the year in which the election is held ~~for~~ **and not** later than 5 p.m. on the second Friday after the first Monday in March.

Sec. 10.5. NRS 293.203 is hereby amended to read as follows:

293.203 Immediately upon receipt by the county clerk of the certified list of candidates from the Secretary of State, the county clerk shall publish a notice of primary election or general election in a newspaper of general circulation in the county once a week for 2 successive weeks. If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest Nevada county. The notice must contain:

1. The date of the election.

2. The location of the polling places.

3. The hours during which the polling places will be open for voting.

4. The names of the candidates ~~+~~ **and, if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, a statement that the person is not eligible to enter upon the duties of the office and that any vote cast for the person will be a nullity and void and will not be given any legal force or effect for the purposes of determining the outcome of the election.**

5. A list of the offices to which the candidates seek nomination or election.

↪ The notice required for a general election pursuant to this section may be published in conjunction with the notice required for a proposed constitution, constitutional amendment or statewide measure pursuant to NRS 293.253. If the notices are combined in this manner, they must be published three times in accordance with subsection 3 of NRS 293.253.

Sec. 11. NRS 293.2546 is hereby amended to read as follows:

293.2546 The Legislature hereby declares that each voter has the right:

1. To receive and cast a ballot that:

(a) Is written in a format that allows the clear identification of candidates; and

(b) Accurately records the voter's preference in the selection of candidates.

2. To have questions concerning voting procedures answered and to have an explanation of the procedures for voting posted in a conspicuous place at the polling place.

3. To vote without being intimidated, threatened or coerced.

4. To vote on election day if the voter is waiting in line at his or her polling place to vote before 7 p.m. and the voter has not already cast a vote in that election.

5. To return a spoiled ballot and is entitled to receive another ballot in its place.

6. To request assistance in voting, if necessary.

7. To a sample ballot which is accurate, informative and delivered in a timely manner.

8. To receive instruction in the use of the equipment for voting during early voting or on election day.

9. To have nondiscriminatory equal access to the elections system, including, without limitation, a voter who is elderly, disabled, a member of a minority group, employed by the military or a citizen who is overseas.

10. **To be informed:**

~~(a) If a candidate dies, is adjudicated insane or mentally incompetent, or is found not to be eligible to hold the office for which he or she is a~~ **is or becomes an ineligible candidate; and**

~~(b) That any vote cast for a candidate described in paragraph (a) an ineligible candidate will be a nullity and void and will not be counted in~~ **given any legal force or effect for the purposes of determining the outcome of the election.**

11. To have a uniform, statewide standard for counting and recounting all votes accurately.

~~11.1~~ 12. To have complaints about elections and election contests resolved fairly, accurately and efficiently.

Sec. 11.5. NRS 293.257 is hereby amended to read as follows:

293.257 1. There must be a separate primary ballot for each major political party. ~~The~~ **Except as otherwise provided in section 2 of this act, the** names of candidates for partisan offices who have designated a major political party in the declaration of candidacy or acceptance of candidacy must appear on the primary ballot of the major political party designated.

2. The county clerk may choose to place the names of candidates for nonpartisan offices on the ballots for each major political party or on a separate nonpartisan primary ballot, but the arrangement which the county clerk selects must permit all registered voters to vote on them.

3. A registered voter may cast a primary ballot for a major political party at a primary election only if the registered voter designated on his or her application to register to vote an affiliation with that major political party.

Sec. 12. NRS 293.260 is hereby amended to read as follows:

293.260 **Except as otherwise provided in sections 1.7 and 2 of this act:**

__1. Where there is no contest of election for nomination to a particular office, neither the title of the office nor the name of the candidate may appear on the ballot.

2. If more than one major political party has candidates for a particular office, the persons who receive the highest number of votes at the primary elections must be declared the nominees of those parties for the office.

3. If only one major political party has candidates for a particular office and a minor political party has nominated a candidate for the office or an independent candidate has filed for the office, the candidate who receives the highest number of votes in the primary election of the major political party must be declared the nominee of that party and his or her name must be placed on the general election ballot with the name of the nominee of the minor political party for the office and the name of the independent candidate who has filed for the office.

4. If only one major political party has candidates for a particular office and no minor political party has nominated a candidate for the office and no independent candidate has filed for the office:

(a) If there are more candidates than twice the number to be elected to the office, the names of the candidates must appear on the ballot for a primary election. Except as otherwise provided in this paragraph, the candidates of that party who receive the highest number of votes in the primary election, not to exceed twice the number to be elected to that office at the general election, must be declared the nominees for the office. If only one candidate is to be elected to the office and a candidate receives a majority of the votes in the primary election for that office, that candidate must be declared the nominee for that office and his or her name must be placed on the ballot for the general election.

(b) If there are no more than twice the number of candidates to be elected to the office, the candidates must, without a primary election, be declared the nominees for the office.

5. Where no more than the number of candidates to be elected have filed for nomination for:

(a) Any partisan office, the office of judge of the Court of Appeals or the office of justice of the Supreme Court, the names of those candidates must be omitted from all ballots for a primary election and placed on all ballots for a general election;

(b) Any nonpartisan office, other than the office of justice of the Supreme Court, office of judge of the Court of Appeals or the office of member of a town advisory board, the names of those candidates must appear on the ballot for a primary election ~~and~~ unless the candidates were nominated pursuant to subsection ~~121~~ 1 of NRS 293.165. If a candidate receives one or more votes at the primary election, the candidate must be declared elected to the office and his or her name must not be placed on the ballot for the general election. If a candidate does not receive one or more votes at the primary election, his or her name must be placed on the ballot for the general election; and

(c) The office of member of a town advisory board, the candidate must be declared elected to the office and no election must be held for that office.

6. If there are more candidates than twice the number to be elected to a nonpartisan office, the names of the candidates must appear on the ballot for a primary election. Those candidates who receive the highest number of votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office.

Sec. 12.2. NRS 293.263 is hereby amended to read as follows:

293.263 On the primary ballots for a major political party, the name of the major political party must appear at the top of the ballot. Except as otherwise provided in NRS 293.2565, **and section 2 of this act,** following this designation must appear the names of candidates grouped alphabetically under the title and length of term of the partisan office for which those candidates filed.

Sec. 12.3. NRS 293.265 is hereby amended to read as follows:

293.265 On nonpartisan primary ballots, there must appear at the top of the ballot the designation “Nonpartisan Offices.” Except as otherwise provided in NRS 293.2565, **and section 2 of this act,** following this designation must appear the names of candidates grouped alphabetically under the title and length of term of the nonpartisan office for which those candidates filed.

Sec. 12.4. NRS 293.267 is hereby amended to read as follows:

293.267 1. ~~[Ballots]~~ **Except as otherwise provided in section 2 of this act, ballots** for a general election must contain the names of candidates who were nominated at the primary election, the names of the candidates of a minor political party and the names of independent candidates.

2. Except as otherwise provided in NRS 293.2565, **and section 2 of this act,** names of candidates must be grouped alphabetically under the title and length of term of the office for which those candidates filed.

3. Except as otherwise provided in subsection 4:

(a) Immediately following the name of each candidate for a partisan office must appear the name or abbreviation of his or her political party, the word “independent” or the abbreviation “IND,” as the case may be.

(b) Immediately following the name of each candidate for a nonpartisan office must appear the word “nonpartisan” or the abbreviation “NP.”

4. Where a system of voting other than by paper ballot is used, the Secretary of State may provide for any placement of the name or abbreviation of the political party, the word “independent” or “nonpartisan” or the abbreviation “IND” or “NP,” as appropriate, which clearly relates the designation to the name of the candidate to whom it applies.

5. If the Legislature rejects a statewide measure proposed by initiative and proposes a different measure on the same subject which the Governor approves, the measure proposed by the Legislature and approved by the Governor must be listed on the ballot before the statewide measure proposed by initiative. Each ballot and sample ballot upon which the measures appear must contain a statement that reads substantially as follows:

The following questions are alternative approaches to the same issue, and only one approach may be enacted into law. Please vote for only one.

Sec. 12.6. NRS 293.268 is hereby amended to read as follows:

293.268 ~~[(The)]~~ **Except as otherwise provided in section 2 of this act, the** offices for which there are candidates, the names of the candidates therefor, and the questions to be voted upon must be printed on ballots in the following order:

1. President and Vice President of the United States.
2. United States Senator and Representative in Congress, in that sequence.
3. Governor, Lieutenant Governor, Secretary of State, Treasurer, Controller and Attorney General, in that sequence.
4. State Senators and members of the Assembly.
5. County and township partisan offices.
6. Statewide nonpartisan offices.
7. District nonpartisan offices.
8. County nonpartisan offices.
9. City offices:
 - (a) Mayor;
 - (b) Council members according to ward in numerical order, if no wards, in alphabetical order; and
 - (c) Municipal judges.
10. Township nonpartisan offices.
11. Questions presented to the voters of the State with advisory questions listed in consecutive order after any other questions presented to the voters of the State.
12. Questions presented only to the voters of a special district or political subdivision of the State with advisory questions listed in consecutive order after any other questions presented only to the voters of a special district or political subdivision of the State.

Sec. 12.7. NRS 293.269 is hereby amended to read as follows:

293.269 1. Every ballot upon which appears the names of candidates for any statewide office or for President and Vice President of the United States shall contain for each office an additional line equivalent to the lines on which the candidates' names appear and placed at the end of the group of lines containing the names of the candidates for that office. Each additional line shall contain a square in which the voter may express a choice of that line in the same manner as the voter would express a choice of a candidate, and the line shall read "None of these candidates."

2. ~~[(Only)]~~ **Except as otherwise provided in section 1.7 of this act, only** votes cast for the named candidates shall be counted in determining nomination or election to any statewide office or presidential nominations or the selection of presidential electors, but for each office the number of ballots on which the additional line was chosen shall be listed following the names of the candidates and the number of their votes in every posting, abstract and proclamation of the results of the election.

3. Every sample ballot or other instruction to voters prescribed or approved by the Secretary of State shall clearly explain that the voter may mark the choice of the line “None of these candidates” only if the voter has not voted for any candidate for the office.

Sec. 13. ~~NRS 293.3606 is hereby amended to read as follows:~~

~~293.3606 1. After 8 a.m. on election day, the appropriate board shall count in public the returns for early voting.~~

~~2. The returns for early voting must not be reported until after the polls have closed on election day.~~

~~3. The returns for early voting must be reported separately from the regular votes of the precinct, unless reporting the returns separately would violate the secrecy of the voter's ballot.~~

~~4. The county clerk shall develop a procedure to ensure that [each]:~~

~~(a) Each ballot is kept secret []; and~~

~~(b) No vote cast during the period for early voting for a candidate who is not eligible to hold the office for which he or she is a candidate is counted in determining the outcome of the election.~~

~~5. Any person who disseminates to the public information relating to the count of returns for early voting before the polls close is guilty of a gross misdemeanor.~~ **(Deleted by amendment.)**

Sec. 14. NRS 293.367 is hereby amended to read as follows:

293.367 1. The basic factor to be considered by an election board when making a determination of whether a particular ballot must be rejected is whether any identifying mark appears on the ballot which, in the opinion of the election board, constitutes an identifying mark such that there is a reasonable belief entertained in good faith that the ballot has been tampered with and, as a result of the tampering, the outcome of the election would be affected.

2. The regulations for counting ballots must include provisions that:

(a) ~~A vote cast for [a candidate who is not eligible to hold the office for which he or she is a]~~ **an ineligible candidate does not invalidate any other votes properly marked on that ballot.**

(b) An error in marking one or more votes on a ballot does not invalidate any votes properly marked on that ballot.

~~[(b)]~~ (c) A soiled or defaced ballot may not be rejected if it appears that the soiling or defacing was inadvertent and was not done purposely to identify the ballot.

~~[(c)]~~ (d) Only devices provided for in this chapter or chapter 293B of NRS may be used in marking ballots.

~~[(d)]~~ (e) It is unlawful for any election board officer to place any mark upon any ballot other than a spoiled ballot.

~~[(e)]~~ (f) When an election board officer rejects a ballot for any alleged defect or illegality, the officer shall seal the ballot in an envelope and write upon the envelope a statement that it was rejected and the reason for rejecting it. Each election board officer shall sign the envelope.

Sec. 15. NRS 293.3677 is hereby amended to read as follows:

293.3677 1. When counting a vote in an election ~~[- if] :~~

(a) *If* more choices than permitted by the instructions for a ballot are marked for any office or question, the vote for that office or question may not be counted.

(b) ~~*No*~~ *A vote cast for ~~for~~ an ineligible candidate ~~who is not eligible to hold the office for which he or she is a candidate may be counted in~~ is a nullity and void and must not be given any legal force or effect for the purposes of determining the outcome of the election.*

2. Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by darkening a designated space on the ballot:

(a) A vote must be counted if the designated space is darkened or there is a writing in the designated space, including, without limitation, a cross or check; and

(b) Except as otherwise provided in paragraph (a), a writing or other mark on the ballot, including, without limitation, a cross, check, tear or scratch may not be counted as a vote.

3. The Secretary of State:

(a) May adopt regulations establishing additional uniform, statewide standards, not inconsistent with this section, for counting a vote cast by a method of voting described in subsection 2; and

(b) Shall adopt regulations establishing uniform, statewide standards for counting a vote cast by each method of voting used in this State that is not described in subsection 2, including, without limitation, a vote cast on a mechanical recording device which directly records the votes electronically.

Sec. 16. NRS 293.370 is hereby amended to read as follows:

293.370 1. When all the votes have been counted ~~[- except as otherwise]~~ *in the manner provided in NRS 293.3677*, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes the candidate received ~~[-]~~ *and, if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the number of votes the ineligible candidate received that are a nullity and void.* The vote for and against any question submitted to the electors must be entered in the same manner.

2. ~~The *Except as otherwise provided in NRS 293.3677, the*~~ tally lists must show the number of votes, other than absentee votes and votes in a mailing precinct, which each candidate received in each precinct at:

(a) A primary election held in an even-numbered year; or

(b) A general election.

Sec. 17. NRS 293.387 is hereby amended to read as follows:

293.387 1. As soon as the returns from all the precincts and districts in any county have been received by the board of county commissioners, the board shall meet and canvass the returns. The canvass must be completed on or before the sixth working day following the election.

2. In making its canvass, the board shall:

(a) Note separately any clerical errors discovered; and

(b) Take account of the changes resulting from the discovery, so that the result declared represents the true vote cast.

3. The county clerk shall, as soon as the result is declared, enter upon the records of the board an abstract of the result, which must ~~be, except as otherwise provided in NRS 293.3677,~~ contain the number of votes cast for each candidate ~~and, if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the number of votes cast for the ineligible candidate that are a nullity and void.~~ The board, after making the abstract, shall cause the county clerk to certify the abstract and, by an order made and entered in the minutes of its proceedings, to make:

(a) A copy of the certified abstract; and

(b) A mechanized report of the abstract in compliance with regulations adopted by the Secretary of State, and transmit them to the Secretary of State not more than 7 working days after the election.

4. The Secretary of State shall, immediately after any primary election, compile the returns for all candidates voted for in more than one county. The Secretary of State shall make out and file in his or her office an abstract thereof, which must contain the number of votes cast for each candidate and, if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the number of votes cast for the ineligible candidate that are a nullity and void, and shall certify to the county clerk of each county the name of each person nominated, and the name of the office for which the person is nominated.

Sec. 17.1. NRS 293.393 is hereby amended to read as follows:

293.393 1. On or before the sixth working day after any general election or any other election at which votes are cast for any United States Senator, Representative in Congress, member of the Legislature or any state officer who is elected statewide, the board of county commissioners shall open the returns of votes cast and make abstracts of the votes.

2. Abstracts of votes must be prepared in the manner prescribed by the Secretary of State by regulation.

3. The county clerk shall make out a certificate of election to each of the persons having the highest number of votes for the district, county and township offices ~~and, except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the county clerk shall not make out a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.~~

4. Each certificate must be delivered to the person elected upon application at the office of the county clerk.

Sec. 17.2. NRS 293.395 is hereby amended to read as follows:

293.395 1. The board of county commissioners, after making the abstract of votes as provided in NRS 293.393, shall cause the county clerk to certify the abstract and, by an order made and entered in the minutes of its proceedings, to make:

- (a) A copy of the certified abstract; and
 - (b) A mechanized report of that abstract in compliance with regulations adopted by the Secretary of State,
- ➔ and forthwith transmit them to the Secretary of State.

2. On the fourth Tuesday of November after each general election, the justices of the Supreme Court, or a majority thereof, shall meet with the Secretary of State, and shall open and canvass the vote for the number of presidential electors to which this State may be entitled, United States Senator, Representative in Congress, members of the Legislature, state officers who are elected statewide or by district, district judges, or district officers whose districts include area in more than one county and for and against any question submitted.

3. The Governor shall issue certificates of election to and commission the persons having the highest number of votes and shall issue proclamations declaring the election of those persons ~~and~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the Governor shall not issue a certificate of election to, commission or issue a proclamation declaring the election of the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 17.3. NRS 293.397 is hereby amended to read as follows:

293.397 ~~{A}~~

1. Except as otherwise provided in this section, a certificate of election or commission must not be withheld from the person having the highest number of votes for the office because of any contest of election filed in the election or any defect or informality in the returns of any election, if it can be ascertained with reasonable certainty from the returns what office is intended and who is entitled to the certificate or commission.

2. If the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, a certificate of election or commission must not be issued or given to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.

Sec. 17.4. NRS 293.400 is hereby amended to read as follows:

293.400 1. ~~{H}~~ **Except as otherwise provided in section 1.7 of this act, if** after the completion of the canvass of the returns of any election, two or more persons receive an equal number of votes, which is sufficient for the election of one or more but fewer than all of them to the office, the person or persons elected must be determined as follows:

- (a) In a general election for a United States Senator, Representative in Congress, state officer who is elected statewide or by district, district judge, or district officer whose district includes area in more than one county, the

Legislature shall, by joint vote of both houses, elect one of those persons to fill the office.

(b) In a primary election for a United States Senator, Representative in Congress, state officer who is elected statewide or by district, district judge, or district officer whose district includes area in more than one county, the Secretary of State shall summon the candidates who have received the tie votes to appear before the Secretary of State at a time and place designated by the Secretary of State and the Secretary of State shall determine the tie by lot. If the tie vote is for the office of Secretary of State, the Governor shall perform these duties.

(c) For any office of a county, township, incorporated city, city organized under a special charter where the charter is silent as to determination of a tie vote, or district which is wholly located within one county, the county clerk shall summon the candidates who have received the tie votes to appear before the county clerk at a time and place designated by the county clerk and determine the tie by lot. If the tie vote is for the office of county clerk, the board of county commissioners shall perform these duties.

2. The summons mentioned in this section must be mailed to the address of the candidate as it appears upon the candidate's declaration of candidacy at least 5 days before the day fixed for the determination of the tie vote and must contain the time and place where the determination will take place.

3. The right to a recount extends to all candidates in case of a tie ~~[-]~~, **except for ineligible candidates.**

Sec. 17.5. NRS 293.403 is hereby amended to read as follows:

293.403 1. ~~[-]~~ **Except as otherwise provided in section 1.8 of this act,** a candidate defeated at any election may demand and receive a recount of the vote for the office for which he or she is a candidate to determine the number of votes received for the candidate and the number of votes received for the person who won the election if within 3 working days after the canvass of the vote and the certification by the county clerk or city clerk of the abstract of votes the candidate who demands the recount:

(a) Files in writing a demand with the officer with whom the candidate filed his or her declaration of candidacy or acceptance of candidacy; and

(b) Deposits in advance the estimated costs of the recount with that officer.

2. Any voter at an election may demand and receive a recount of the vote for a ballot question if within 3 working days after the canvass of the vote and the certification by the county clerk or city clerk of the abstract of votes, the voter:

(a) Files in writing a demand with:

(1) The Secretary of State, if the demand is for a recount of a ballot question affecting more than one county; or

(2) The county or city clerk who will conduct the recount, if the demand is for a recount of a ballot question affecting only one county or city; and

(b) Deposits in advance the estimated costs of the recount with the person to whom the demand was made.

3. The estimated costs of the recount must be determined by the person with whom the advance is deposited based on regulations adopted by the Secretary of State defining the term "costs."

4. As used in this section, "canvass" means:

(a) In any primary election, the canvass by the board of county commissioners of the returns for a candidate or ballot question voted for in one county or the canvass by the board of county commissioners last completing its canvass of the returns for a candidate or ballot question voted for in more than one county.

(b) In any primary city election, the canvass by the city council of the returns for a candidate or ballot question voted for in the city.

(c) In any general election:

(1) The canvass by the Supreme Court of the returns for a candidate for a statewide office or a statewide ballot question; or

(2) The canvass of the board of county commissioners of the returns for any other candidate or ballot question, as provided in paragraph (a).

(d) In any general city election, the canvass by the city council of the returns for a candidate or ballot question voted for in the city.

Sec. 17.6. NRS 293.407 is hereby amended to read as follows:

293.407 1. ~~1. Except as otherwise provided in section 1.8 of this act,~~ a candidate at any election, or any registered voter of the appropriate political subdivision, may contest the election of any candidate, except for the office of United States Senator or Representative in Congress.

2. Except where the contest involves the general election for the office of Governor, Lieutenant Governor, Assemblyman, Assemblywoman, State Senator, justice of the Supreme Court or judge of the Court of Appeals, a candidate or voter who wishes to contest an election, including election to the office of presidential elector, must, within the time prescribed in NRS 293.413, file with the clerk of the district court a written statement of contest, setting forth:

(a) The name of the contestant and that the contestant is a registered voter of the political subdivision in which the election to be contested or part of it was held;

(b) The name of the defendant;

(c) The office to which the defendant was declared elected;

(d) The particular grounds of contest and the section of Nevada Revised Statutes pursuant to which the statement is filed; and

(e) The date of the declaration of the result of the election and the body or board which canvassed the returns thereof.

3. The contestant shall verify the statement of contest in the manner provided for the verification of pleadings in civil actions.

4. All material regarding a contest filed by a contestant with the clerk of the district court must be filed in triplicate.

Sec. 17.7. NRS 293.427 is hereby amended to read as follows:

293.427 1. The Secretary of State shall deliver the statement of contest filed pursuant to NRS 293.425 and all other documents, including any amendments to the statement, to the presiding officer of the appropriate house of the Legislature on the day of the organization of the Legislature.

2. Until the contest has been decided, the candidate who received the highest number of votes for the office in the contested election must be seated as a member of the appropriate house ~~and~~, **except that if the name of an ineligible candidate for the office could not be removed from the ballot pursuant to section 2 of this act, the ineligible candidate must not be seated as a member of the appropriate house regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

3. If, before the contest has been decided, a contestant gives written notice to the Secretary of State that the contestant wishes to withdraw his or her statement of contest, the Secretary of State shall dismiss the contest.

4. The contest, if not dismissed, must be heard and decided as prescribed by the standing or special rules of the house in which the contest is to be tried. If, after hearing the contest, the house decides to declare the contestant elected, the Governor shall execute a certificate of election and deliver it to the contestant. The certificate of election issued to the other candidate is thereafter void.

5. In a contest of a general election for the office of Assemblyman, Assemblywoman or Senator, the house in which a contest was tried or was to be tried shall determine the remedy, if any, to be awarded to a party to such a contest. The remedy may include, without limitation, any costs incurred by a party in connection with the contest.

Sec. 17.8. NRS 293.430 is hereby amended to read as follows:

293.430 1. If the contest is of the general election for the office of Governor, Lieutenant Governor, justice of the Supreme Court or judge of the Court of Appeals, the statement of contest and all depositions, ballots and other documents relating to the contest must be filed with the Secretary of State within the time provided for filing statements of contests with the clerk of the district court.

2. Until the contest is decided, the candidate who received the highest number of votes for the office in the contested election must be seated and commence the duties of the office ~~and~~, **except that if the name of an ineligible candidate for the office could not be removed from the ballot pursuant to section 2 of this act, the ineligible candidate must not be seated or commence the duties of the office regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

3. The Secretary of State shall deliver the statement of contest and all other papers and documents to the speaker of the assembly on the day of the organization of the Legislature.

4. A joint session of both houses must be convened as soon thereafter as the business of both houses permits, but not later than 10 days after receipt of statement of contest.

5. If, before the contest has been decided, a contestant gives written notice to the Secretary of State that the contestant wishes to withdraw his or her statement of contest, the Secretary of State shall dismiss the contest.

Sec. 17.9. NRS 293.435 is hereby amended to read as follows:

293.435 1. After both houses sitting in joint session have decided an election contest, the Secretary of State shall execute and deliver a certificate of election to the person declared elected, unless such a certificate was already issued to that person ~~if~~, except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the Secretary of State shall not execute and deliver a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.

2. If a certificate of election to the same office has been issued to any person other than the one declared to have been elected, that certificate is void.

Sec. 18. Chapter 293C of NRS is hereby amended by adding thereto ~~to~~ a new section to read as follows: the provisions set forth as sections 18.3 and 18.5 of this act.

Sec. 18.3. 1. Notwithstanding any other provision of law, any vote cast for an ineligible candidate is a nullity and void and must not be given any legal force or effect for the purposes of determining the outcome of a primary city election, general city election or special election or any other city election.

2. The provisions of this section are intended to abrogate any principle or rule of the common law to the contrary.

Sec. 18.5. 1. ~~If, after a person files a declaration of candidacy, the person dies, is adjudicated insane or mentally incompetent, or is found not to be eligible to hold the office for which he or she is a candidate, except~~ Except as otherwise provided in subsection 2, this section, the person's name of a person who is or becomes an ineligible candidate must not appear on the ballot at a primary city election, general city election or special election ~~if~~ or any other city election.

2. If a person is or becomes an ineligible candidate, the city clerk shall remove the name of the person from the ballot, except that no changes may be made on the ballot pursuant to this section for:

(a) A primary city election after 5 p.m. on the last Friday in February of the year in which the primary city election is held.

(b) A general city election after 5 p.m. on the second Friday in April of the year in which the general city election is held.

(c) A special election or any other city election after 5 p.m. on the last day prescribed by the governing body of the city or the city clerk, as applicable, for making changes on the ballot for that election.

3. If the period for making changes on the ballot has elapsed pursuant to this section and, for that reason, the city clerk ~~determines that there is not time to~~ cannot remove the name of the person who is or becomes an ineligible candidate from the ballot, the city clerk ~~must~~ shall:

(a) At each polling place where the person's name will appear on the ballot, including, without limitation, a polling place for early voting:

(1) Post a sign informing voters that the person is not eligible to enter upon the duties of the office and that any vote cast for the person will be a nullity and void and will not be counted given any legal force or effect for the purposes of determining the outcome of the election;

(2) Place a notice on or near each mechanical recording device informing a voter who uses the device that the person is not eligible to enter upon the duties of the office and that any vote cast for the person will be a nullity and void and will not be counted given any legal force or effect for the purposes of determining the outcome of the election; and

(3) If paper ballots are used, ~~place a sticker or other~~ include a notice on or with each paper ballot informing a voter who uses the paper ballot that the person is not eligible to enter upon the duties of the office and that any vote cast for the person will be a nullity and void and will not be counted given any legal force or effect for the purposes of determining the outcome of the election; and

(b) ~~If the absent ballots have not been distributed before the person died, was adjudicated insane or mentally incompetent, or was found not to be eligible to hold the office for which he or she is a candidate, by the city clerk must place a sticker or other~~ include a notice on or with each absent ballot informing a voter who uses the absent ballot that the person is not eligible to enter upon the duties of the office and that any vote cast for the person will be a nullity and void and will not be counted given any legal force or effect for the purposes of determining the outcome of the election.

Sec. 19. NRS 293C.115 is hereby amended to read as follows:

293C.115 1. The governing body of a city incorporated pursuant to general law may by ordinance provide for a primary city election and a general city election on:

(a) The dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS; or

(b) The dates set forth for primary city elections and general city elections pursuant to the provisions of this chapter.

2. If a governing body of a city adopts an ordinance pursuant to paragraph (a) of subsection 1, the dates set forth in NRS 293.12755, ~~in subsections 2 to 5, inclusive, of NRS~~ 293.165, and in NRS 293.166, 293.175, 293.177 ~~and 293.345 and 293.368~~ section 2 of this act apply for purposes of conducting the primary city elections and general city elections of the city.

3. If a governing body of a city adopts an ordinance pursuant to subsection 1:

(a) The term of office of any elected city official may not be shortened as a result of the ordinance; and

(b) Each elected city official holds office until the end of his or her term and until his or her successor has been elected and qualified.

Sec. 19.3. NRS 293C.175 is hereby amended to read as follows:

293C.175 1. Except as otherwise provided in NRS 293C.115, a primary city election must be held in each city of population category one, and in each city of population category two that has so provided by ordinance, on the first Tuesday after the first Monday in April of every year in which a general city election is to be held, at which time there must be nominated candidates for offices to be voted for at the next general city election.

2. Except as otherwise provided in NRS 293C.115, a candidate for any office to be voted for at the primary city election must file a declaration of candidacy with the city clerk not less than 60 days or more than 70 days before the date of the primary city election. The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the governing body of the city by ordinance or resolution. The filing fees collected by the city clerk must be deposited to the credit of the general fund of the city.

3. All candidates, except as otherwise provided in NRS 266.220, must be voted upon by the electors of the city at large.

4. **Except as otherwise provided in sections 18.3 and 18.5 of this act:**

(a) If, in a primary city election held in a city of population category one or two, one candidate receives more than a majority of votes cast in that election for the office for which he or she is a candidate, the candidate must be declared elected to the office and the candidate's name must not be placed on the ballot for the general city election.

(b) If, in the primary city 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 city election.

Sec. 19.5. NRS 293C.180 is hereby amended to read as follows:

293C.180 **Except as otherwise provided in sections 18.3 and 18.5 of this act:**

1. If at 5 p.m. on the last day for filing a declaration of candidacy, there is only one candidate who has filed for nomination for an office, that candidate must be declared elected and no election may be held for that office.

2. Except as otherwise provided in subsection 1, if not more than twice the number of candidates to be elected have filed for nomination for an office, the names of those candidates must be omitted from all ballots for a primary city election and placed on all ballots for a general city election.

3. If more than twice the number of candidates to be elected have filed for nomination for an office, the names of the candidates must appear on the ballot for a primary city election. Except as otherwise provided in subsection 4 of NRS 293C.175, those candidates who receive the highest number of votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office.

Sec. 20. NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS 293C.115 ~~for~~ and 293C.190, and section 18.5 of this act, a name may not be printed on a ballot to be used at a primary city election unless the person ~~is~~

~~—(a) Person~~ named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than 70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election. ~~Is and~~

~~—(b) Filing officer has verified the accuracy of all information contained in the person's declaration of candidacy or acceptance of candidacy pursuant to the procedure set forth in regulations adopted by the Secretary of State.~~

2. A declaration of candidacy required to be filed by this section must be in substantially the following form:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

City of

For the purpose of having my name placed on the official ballot as a candidate for the office of, I, ..., the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence, **in accordance with NRS 281.050**, in the city, township or other area prescribed by law to which the office pertains began on a date at least ~~[30]~~ 180 days ~~[1 year]~~ immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this day of the month of of the year

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if ~~the~~ **the candidate fails to comply with the following:**

(a) The **candidate shall not list the** candidate's address ~~is listed~~ as a post office box unless a street address has not been assigned to the residence; ~~for~~ **and**

(b) The candidate ~~does not~~ **shall** present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; ~~for~~ **and**

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number, ~~for~~ driver's license or identification card number **or account number** of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in

writing to the city clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.

6. If the ~~{city clerk}~~ **Secretary of State** receives credible evidence indicating that a candidate ~~{has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction,}~~ **does not meet any qualification required for the office pursuant to the Constitution or laws of this State**, the ~~{city clerk}~~:

~~—(a) May conduct;~~ **Secretary of State shall:**

(a) **Conduct** an investigation to determine whether the candidate ~~{has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction;}~~ **is eligible to hold the office;** and

(b) ~~{Shall transmit}~~ **Transmit** the credible evidence and the findings from such investigation to the appropriate city attorney.

7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. ~~{If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.}~~

8. Any person who knowingly and willfully files a declaration of candidacy or acceptance of candidacy which contains a false statement in violation of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 21. NRS 293C.186 is hereby amended to read as follows:

293C.186 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than 5 {working days after} p.m. on the last {day the person may withdraw his or her candidacy} **Monday immediately preceding the first day of the period of early voting by personal appearance for the general city election pursuant to NRS {293C.195,} 293C.3568,** an elector may file with the city clerk a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the constitution or ~~{a statute}~~ **laws** of this State . ~~{, including, without limitation, a requirement concerning age or residency.}~~ Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and ~~{court}~~ costs of the ~~{challenged person}~~ **person who is being challenged.**

2. A challenge filed pursuant to subsection 1 must:

(a) Indicate each qualification the person fails to meet;

(b) Have attached all documentation and evidence supporting the challenge;

and

(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1, the city clerk shall immediately transmit the challenge to the city attorney.

4. If the city attorney determines that probable cause exists to support the challenge, the city attorney shall not later than 5 working days after receiving the challenge, immediately petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the constitution or ~~the statute~~ laws of this State, or if the person fails to appear at the hearing, ~~the~~

~~—(a) The~~ Except as otherwise provided in this paragraph, the name of the person must not appear on any ballot for the election for the office for which the person filed the declaration of candidacy or acceptance of candidacy; and If there is not time to remove the person's name from the ballot, no vote cast for the person may be counted for purposes of determining the outcome of the election and the city clerk must comply with the provisions of subsection 2 of section 18 of this act.

~~—(b) The~~ , the person is ~~[disqualified from entering upon the duties of the office for which he or she filed the declaration of candidacy or acceptance of candidacy.~~

~~—(c) The court may order that the challenged person pay the attorney's fees and court costs of the elector who filed the challenge.~~ an ineligible candidate and is subject to the provisions of section 2.5 of this act.

6. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and ~~court~~ costs of the ~~challenged person.~~ person who was challenged.

Sec. 22. NRS 293C.1865 is hereby amended to read as follows:

293C.1865 ~~[1]~~ In addition to any other remedy or penalty provided by law, if a person knowingly and willfully files a declaration of candidacy or acceptance of candidacy ~~[knowing that the declaration of candidacy or acceptance of candidacy]~~ which contains a false statement:

~~[(a) Except as otherwise provided in NRS 293.165 or 293.166, the~~ The ~~name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy; and~~

~~—(b)]~~ 1. The person is an ineligible candidate, and the city clerk shall take appropriate action regarding the ineligible candidate pursuant to section 18.5 of this act; and

2. The person is disqualified from entering upon the duties of the office for which he or she ~~was a candidate.~~

~~2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election is disqualified because the deadline set forth in NRS 293.165 and 293.166 for making changes to the ballot has passed, the Secretary of State and there is not time to remove the person's name from the ballot, the city clerk must post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of office. comply with the provisions of subsection 2 of section 18 of this act, filed the declaration of candidacy or acceptance of candidacy.~~

Sec. 22.3. NRS 293C.187 is hereby amended to read as follows:

293C.187 Not later than 30 days before the primary city election and the general city election, the city clerk shall cause to be published a notice of the election in a newspaper of general circulation in the city once a week for 2 successive weeks. If a newspaper of general circulation is not published in the city, the publication may be made in a newspaper of general circulation published within the county in which the city is located. If a newspaper of general circulation is not published in that county, the publication may be made in a newspaper of general circulation published in the nearest Nevada county. The notice must contain:

1. The date of the election.
2. The location of the polling places.
3. The hours during which the polling places will be open for voting.
4. The names of the candidates ~~and~~ **and, if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, a statement that the person is not eligible to enter upon the duties of the office and that any vote cast for the person will be a nullity and void and will not be given any legal force or effect for the purposes of determining the outcome of the election.**

5. A list of the offices to which the candidates seek nomination or election.

Sec. 22.5. NRS 293C.190 is hereby amended to read as follows:

293C.190 1. Except as otherwise provided in NRS 293C.115, a vacancy occurring in a nomination for a city office after the close of filing and on or before 5 p.m. of the first Tuesday after the first Monday in March in a year in which a general city election is held must be filled by filing a nominating petition that is signed by at least 1 percent of the persons who are registered to vote and who voted for that office at the last preceding general city election. Except as otherwise provided in NRS 293C.115, the petition must be filed not earlier than the third Tuesday in February and not later than the third Tuesday after the third Monday in March. A candidate nominated pursuant to the provisions of this subsection may be elected only at a general city election, and the candidate's name must not appear on the ballot for a primary city election.

2. Except as otherwise provided in NRS 293C.115, a vacancy occurring in a nomination for a city office after 5 p.m. of the first Tuesday after the first

Monday in March and on or before 5 p.m. of the second Tuesday after the second Monday in April must be filled by the person who received the next highest vote for the nomination in the primary city election.

3. Except to place a candidate nominated pursuant to subsection 1 on the ballot and except as otherwise provided in NRS 293C.115, **and section 18.5 of this act**, no change may be made on the ballot for the general city election after 5 p.m. of the second Tuesday after the second Monday in April of the year in which the general city election is held ~~[If a nominee dies]~~, **and no vacancy in a nomination for a city office may be filled** after that time and date ~~[the nominee's name must remain on the ballot for the general city election and, if elected, a vacancy exists.]~~

4. Except as otherwise provided in NRS 293C.115, all designations provided for in this section must be filed on or before 5 p.m. on the second Tuesday after the second Monday in April of the year in which the general city election is held. The filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on ~~[that date.]~~ **the date the designation is filed.**

Sec. 23. NRS 293C.200 is hereby amended to read as follows:

293C.200 1. In addition to any other requirement provided by law, no person may be a candidate for a city office unless, for at least the ~~[30]~~ **180 days** ~~[1 year]~~ immediately preceding the date of the close of filing of declarations or acceptances of candidacy for the office that the person seeks, the person has in accordance with NRS 281.050, actually, as opposed to constructively, resided in the city or other area prescribed by law to which the office pertains and, if elected, over which he or she will have jurisdiction or which he or she will represent.

2. Any person who knowingly and willfully files a declaration of candidacy or an acceptance of candidacy ~~[that]~~ **which** contains a false statement ~~[in this respect]~~ **regarding the person's residency in violation of this section** is guilty of a ~~[gross misdemeanor.]~~ **category 1D E felony** ~~[and shall be punished as provided in NRS 193.130.]~~

Sec. 23.4. **NRS 293C.257 is hereby amended to read as follows:**

293C.257 For a primary city election, there must appear at the top of each ballot the designation "Candidates for city offices." Except as otherwise provided in NRS 293.2565, **and section 18.5 of this act**, following this designation must appear the names of candidates grouped alphabetically under the title and length of term of the office for which those candidates filed.

Sec. 23.5. **NRS 293C.260 is hereby amended to read as follows:**

293C.260 1. Except as otherwise provided in NRS 293C.140, **and section 18.5 of this act**, ballots for a general city election must contain the names of candidates who were nominated at the primary city election.

2. Except as otherwise provided in NRS 293.2565, **and section 18.5 of this act**, the names of candidates must be grouped alphabetically under the title and length of term of the office for which those candidates filed.

Sec. 23.7. **NRS 293C.262 is hereby amended to read as follows:**

293C.262 1. ~~[The]~~ **Except as otherwise provided in section 18.5 of this act, the** offices for which there are candidates, the names of the candidates therefor and the questions to be voted upon must be printed on ballots for a city election in the following order:

(a) City offices:

(1) Mayor;

(2) Council members according to ward in numerical order, if no wards, in alphabetical order; and

(3) Municipal judges.

(b) Questions presented to the voters of a city or a portion of a city with advisory questions listed in consecutive order after any other questions presented to the voters of the city.

2. The city clerk:

(a) May divide paper ballots into two sheets in a manner that provides a clear understanding and grouping of all measures and candidates.

(b) Shall prescribe the color or colors of the ballots and voting receipts used in any election which the clerk is required to conduct.

Sec. 24. ~~[NRS 293C.3606 is hereby amended to read as follows:~~

~~293C.3606 1. After 8 a.m. on election day, the appropriate board shall count in public the returns for early voting.~~

~~2. The returns for early voting must not be reported until after the polls have closed on election day.~~

~~3. The returns for early voting may be reported separately from the regular votes of the precinct, unless reporting the returns separately would violate the secrecy of the voter's ballot.~~

~~4. The city clerk shall develop a procedure to ensure that [each]:~~

~~(a) Each ballot is kept secret [.] ; and~~

~~(b) No vote cast during the period for early voting for a candidate who is not eligible to hold the office for which he or she is a candidate is counted in determining the outcome of the election.~~

~~5. Any person who disseminates to the public information relating to the count of returns for early voting before the polls close is guilty of a gross misdemeanor.] (Deleted by amendment.)~~

Sec. 25. NRS 293C.367 is hereby amended to read as follows:

293C.367 1. The basic factor to be considered by an election board when making a determination of whether a particular ballot must be rejected is whether any identifying mark appears on the ballot which, in the opinion of the election board, constitutes an identifying mark such that there is a reasonable belief entertained in good faith that the ballot has been tampered with and, as a result of the tampering, the outcome of the election would be affected.

2. Regulations for counting ballots must include provisions that:

(a) **A vote cast for a candidate who is not eligible to hold the office for which he or she is a candidate does not invalidate any other [vote] votes properly marked on that ballot.**

(b) An error in marking one or more votes on a ballot does not invalidate any votes properly marked on that ballot.

~~[(b)]~~ (c) A soiled or defaced ballot may not be rejected if it appears that the soiling or defacing was inadvertent and was not done purposely to identify the ballot.

~~[(c)]~~ (d) Only devices provided for in this chapter or chapter 293 or 293B of NRS may be used in marking ballots.

~~[(d)]~~ (e) It is unlawful for any election board officer to place any mark upon any ballot other than a spoiled ballot.

~~[(e)]~~ (f) When an election board officer rejects a ballot for any alleged defect or illegality, the officer shall seal the ballot in an envelope and write upon the envelope a statement that it was rejected and the reason for rejecting it. Each election board officer shall sign the envelope.

Sec. 26. NRS 293C.369 is hereby amended to read as follows:

293C.369 1. When counting a vote in an election ~~[-, if] :~~

(a) *If* more choices than permitted by the instructions for a ballot are marked for any office or question, the vote for that office or question may not be counted.

(b) ~~[(b)]~~ **A vote cast for ~~for~~ an ineligible candidate ~~who is not eligible to hold the office for which he or she is a candidate may be counted in~~ is a nullity and void and must not be given any legal force or effect for the purposes of determining the outcome of the election.**

2. Except as otherwise provided in subsection 1, in an election in which a mechanical voting system is used whereby a vote is cast by darkening a designated space on the ballot:

(a) A vote must be counted if the designated space is darkened or there is a writing in the designated space, including, without limitation, a cross or check; and

(b) Except as otherwise provided in paragraph (a), a writing or other mark on the ballot, including, without limitation, a cross, check, tear or scratch may not be counted as a vote.

3. The Secretary of State:

(a) May adopt regulations establishing additional uniform, statewide standards, not inconsistent with this section, for counting a vote cast by a method of voting described in subsection 2; and

(b) Shall adopt regulations establishing uniform, statewide standards for counting a vote cast by each method of voting used in this State that is not described in subsection 2, including, without limitation, a vote cast on a mechanical recording device which directly records the votes electronically.

Sec. 27. NRS 293C.372 is hereby amended to read as follows:

293C.372 When all the votes have been counted ~~[-, except as otherwise]~~ **in the manner provided in NRS 293C.369,** the counting board officers shall enter on the tally lists by the name of each candidate the number of votes the candidate received ~~[-]~~ **and, if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the number**

of votes the ineligible candidate received that are a nullity and void. The vote for and against any question submitted to the electors must be entered in the same manner.

Sec. 28. NRS 293C.387 is hereby amended to read as follows:

293C.387 1. The election returns from a special election, primary city election or general city election must be filed with the city clerk, who shall immediately place the returns in a safe or vault designated by the city clerk. No person may handle, inspect or in any manner interfere with the returns until they are canvassed by the mayor and the governing body of the city.

2. After the governing body of a city receives the returns from all the precincts and districts in the city, it shall meet with the mayor to canvass the returns. The canvass must be completed on or before the sixth working day following the election.

3. In completing the canvass of the returns, the governing body of the city and the mayor shall:

(a) Note separately any clerical errors discovered; and

(b) Take account of the changes resulting from the discovery, so that the result declared represents the true vote cast.

4. After the canvass is completed, the governing body of the city and mayor shall declare the result of the canvass.

5. The city clerk shall enter upon the records of the governing body of the city an abstract of the result. The abstract must be prepared in the manner prescribed by regulations adopted by the Secretary of State and must ~~be except~~ **as otherwise provided in NRS 293C.369, and, if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the number of votes cast for the ineligible candidate that are a nullity and void.**

6. After the abstract is entered, the:

(a) City clerk shall seal the election returns, maintain them in a vault for at least 22 months and give no person access to them during that period, unless access is ordered by a court of competent jurisdiction or by the governing body of the city.

(b) Governing body of the city shall, by an order made and entered in the minutes of its proceedings, cause the city clerk to:

(1) Certify the abstract;

(2) Make a copy of the certified abstract;

(3) Make a mechanized report of the abstract in compliance with regulations adopted by the Secretary of State;

(4) Transmit a copy of the certified abstract and the mechanized report of the abstract to the Secretary of State within 7 working days after the election; and

(5) Transmit on paper or by electronic means to each public library in the city, or post on a website maintained by the city or the city clerk on the Internet or its successor, if any, a copy of the certified abstract within 30 days after the election.

7. After the abstract of the results from a:

(a) Primary city election has been certified, the city clerk shall certify the name of each person nominated and the name of the office for which the person is nominated.

(b) General city election has been certified, the city clerk shall:

(1) Issue under his or her hand and official seal to each person elected a certificate of election; and

(2) Deliver the certificate to the persons elected upon their application at the office of the city clerk ~~and~~.

↪ except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the city clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.

8. The officers elected to the governing body of the city qualify and enter upon the discharge of their respective duties on the first regular meeting of that body next succeeding that in which the canvass of returns was made pursuant to subsection 2.

Sec. 28.2. NRS 293C.395 is hereby amended to read as follows:

293C.395 ~~[A]~~

1. Except as otherwise provided in this section, a certificate of election or commission must not be withheld from the person having the highest number of votes for the city office because of any contest of election filed in the city election or any defect or informality in the returns of any city election, if it can be ascertained with reasonable certainty from the returns what city office is intended and who is entitled to the certificate or commission.

2. If the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, a certificate of election or commission must not be issued or given to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.

Sec. 28.4. NRS 4.020 is hereby amended to read as follows:

4.020 1. There must be one justice court in each of the townships of the State, for which there must be elected by the qualified electors of the township at least one justice of the peace. Except as otherwise provided in subsection 3, the number of justices of the peace in a township must be increased according to the population of the township, as certified by the Governor in even-numbered years pursuant to NRS 360.285, in accordance with and not to exceed the following schedule:

(a) In a county whose population is 700,000 or more:

(1) In a township whose population is less than 1,100,000, one justice of the peace for each 100,000 population of the township, or fraction thereof, until the township has four justices of the peace, and thereafter, one justice of the peace for each 125,000 population of the township, or fraction thereof, over a population of 300,000; and

(2) In a township whose population is 1,100,000 or more, one justice of the peace for each 100,000 population of the township, or fraction thereof, up to a population of 1,100,000, and thereafter, one justice of the peace for each 125,000 population of the township, or fraction thereof, over a population of 1,100,000.

(b) In a county whose population is 100,000 or more and less than 700,000, one justice of the peace for each 50,000 population of the township, or fraction thereof.

(c) In a county whose population is less than 100,000, one justice of the peace for each 34,000 population of the township, or fraction thereof.

(d) If a township includes a city created by the consolidation of a city and county into one municipal government, one justice of the peace for each 30,000 population of the township, or fraction thereof.

2. Except as otherwise provided in subsection 3, if the schedule set forth in subsection 1 provides for an increase in the number of justices of the peace in a township, the new justice or justices of the peace must be elected at the next ensuing biennial election.

3. If the schedule set forth in subsection 1 provides for an increase in the number of justices of the peace in a township and, in the opinion of a majority of the justices of the peace in that township, the caseload does not warrant an additional justice of the peace, the justices of the peace shall notify the Director of the Legislative Counsel Bureau and the board of county commissioners of their opinion on or before March 15 of the even-numbered year in which the population of the township provides for such an increase. The Director of the Legislative Counsel Bureau shall submit the opinion to the next regular session of the Legislature for its consideration. If the justices of the peace transmit such a notice to the Director of the Legislative Counsel Bureau and the board of county commissioners, the number of justices must not be increased during that period unless the Legislature, by resolution, expressly approves the increase.

4. Justices of the peace shall receive certificates of election from the boards of county commissioners of their respective counties ~~and~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the board of county commissioners shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

5. The clerk of the board of county commissioners shall, within 10 days after the election or appointment and qualification of any justice of the peace, certify under seal to the Secretary of State the election or appointment and qualification of the justice of the peace. The certificate must be filed in the Office of the Secretary of State as evidence of the official character of that officer.

Sec. 29. NRS 218A.200 is hereby amended to read as follows:

218A.200 **1.** A person is not eligible to be elected or appointed to office as a Legislator unless the person:

~~{1-}~~ (a) Is a qualified elector;

~~{2-}~~ (b) Has been an actual, as opposed to constructive, citizen resident, in accordance with NRS 281.050, of ~~{this}~~ :

(1) This State for ~~{1-year next 5-}~~ the 2 years immediately preceding the person's election or appointment; and

(2) The district prescribed by law for the office for ~~{1-year}~~ at least 180 days immediately preceding the date of the close of filing ~~{-}~~ of, as applicable:

(I) ~~{A declaration}~~ Declarations of candidacy or ~~{an acceptance}~~ acceptances of candidacy for the office ~~{-}~~ pursuant to chapter 293 of NRS;
or

(II) ~~{An application}~~ Applications for appointment to the office;
~~{and}~~

~~{3-}~~ (c) At the time of election or appointment, has attained the age of 21 years. ~~{-}~~; and

(d) Meets all other qualifications for the office as required by the Constitution and laws of this State.

2. Any person who knowingly and willfully files ~~{an}~~ a declaration of candidacy or acceptance of candidacy ~~{-}~~ a declaration of candidacy pursuant to chapter 293 of NRS or an application for appointment to office as a Legislator which contains a false statement regarding the person's qualifications for the office in violation of this section is guilty of a category ~~{D}~~ E felony ~~{-}~~ and shall be punished as provided in NRS 193.130.

Sec. 29.1. NRS 218A.210 is hereby amended to read as follows:

218A.210 A person who is elected to office as a Legislator is entitled to receive a certificate of election from the Governor ~~{-}~~, except that if the name of an ineligible candidate for office as a Legislator could not be removed from the ballot pursuant to section 2 of this act, the Governor shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.

Sec. 29.2. NRS 218A.220 is hereby amended to read as follows:

218A.220 1. A person who receives a certificate of election or appointment to office as a Legislator must take and subscribe to the official oath before the person takes office as a Legislator, and an entry thereof must be made on the journal of the proper House.

2. A person shall not take and subscribe to the official oath to take office as a Legislator if, at any time after the person most recently filed a declaration of candidacy or acceptance of candidacy for the office pursuant to chapter 293 of NRS and on or before the date of the most recent general election held for the office, a court of competent jurisdiction has found in any preelection action that the person is an ineligible candidate because the person fails to meet any qualification required for the office pursuant to the Constitution or laws of this State.

Sec. 29.3. NRS 218A.260 is hereby amended to read as follows:

218A.260 1. If a vacancy occurs in the office of a Legislator during a regular or special session or at a time when no biennial election or regular

election at which county officers are to be elected will take place between the occurrence of the vacancy and the next regular or special session, the vacancy must be filled in the manner provided in this section.

2. If the former Legislator was elected or appointed from a district wholly within one county, the board of county commissioners of the county in which the district is located shall fill the vacancy by appointing a person who is a member of the same political party as the former Legislator and who ~~factually, as opposed to constructively, resides in the district.~~ **meets all qualifications for the office as required by NRS 218A.200.**

3. If the former Legislator was elected or appointed from a district comprising more than one county, the county commissioners of each county within or partly within the district shall fill the vacancy by appointing a person who is a member of the same political party as the former Legislator and who ~~factually, as opposed to constructively, resides in the district.~~ **meets all qualifications for the office as required by NRS 218A.200.** To fill the vacancy:

(a) Each board of county commissioners shall first meet separately and determine the single candidate it will nominate to fill the vacancy.

(b) The boards shall then meet jointly. The joint meeting must be chaired by the person who is the chair of the board of county commissioners of the county with the largest population in the district. At the joint meeting:

(1) The chair of each board, on behalf of that board, shall cast a proportionate number of votes according to the percent, rounded to the nearest whole percent, which the population of that board's county is of the population of the entire district. Populations must be determined by the last decennial census or special census conducted by the Bureau of the Census of the United States Department of Commerce.

(2) The person who receives a plurality of these votes is appointed to fill the vacancy. If no person receives a plurality of the votes, the boards of county commissioners of the respective counties shall each select a candidate, and the appointee must be chosen by drawing lots among the candidates so selected.

4. The board of county commissioners or the board of the county with the largest population in the district shall issue a certificate of appointment naming the appointee. The county clerk or the clerk of the county with the largest population in the district shall give the certificate to the appointee and send a copy of the certificate to the Secretary of State.

Sec. 29.4. NRS 218A.400 is hereby amended to read as follows:

218A.400 1. Before the Assembly meets for each regular session, the Secretary of State shall make out a roll from the returns on file in the Secretary of State's office of the persons who received the highest number of votes to be elected to office as members of the Assembly in each district in the general election ~~and~~, **except that if the name of an ineligible candidate for office as a member of the Assembly could not be removed from the ballot pursuant to section 2 of this act, the Secretary of State shall not include the ineligible candidate upon the roll of the persons elected to office as members of the**

Assembly and the name of the ineligible candidate must not appear upon the roll regardless of the number of votes cast for the ineligible candidate that are a nullity and void. The members whose names appear upon the roll must be allowed to participate in the organization of the Assembly.

2. On the first day of each regular session at a time that is appropriate for that regular session, the Secretary of State shall call the Assembly to order and shall preside over the Assembly until a presiding officer is elected.

3. If a special session is convened between the date of the general election and the date of the next regular session, the Assembly must be organized for the special session according to the procedure set forth in this section, except that on the first day of the special session, the Secretary of State shall call the Assembly to order at a time that is appropriate for that special session.

Sec. 29.5. NRS 245.010 is hereby amended to read as follows:

245.010 All county officers elected by the people shall receive certificates of election from the boards of county commissioners of their respective counties ~~and~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the board of county commissioners shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 29.6. NRS 258.010 is hereby amended to read as follows:

258.010 1. Except as otherwise provided in subsections 2 and 3:

(a) Constables must be elected by the qualified electors of their respective townships.

(b) The constables of the several townships of the State must be chosen at the general election of 1966, and shall enter upon the duties of their offices on the first Monday of January next succeeding their election, and hold their offices for the term of 4 years thereafter, until their successors are elected and qualified.

(c) Constables must receive certificates of election from the boards of county commissioners of their respective counties ~~and~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the board of county commissioners shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

2. In a county which includes only one township, the board of county commissioners may, by resolution, appoint the sheriff ex officio constable to serve without additional compensation. The resolution must not become effective until the completion of the term of office for which a constable may have been elected.

3. In a county whose population:

(a) Is less than 700,000, if the board of county commissioners determines that the office of constable is not necessary in one or more townships within the county, it may, by ordinance, abolish the office of constable in those townships.

(b) Is 700,000 or more, if the board of county commissioners determines that the office of constable is not necessary in one or more townships within the county, it may, by ordinance, abolish the office in those townships, but the abolition does not become effective as to a particular township until the constable incumbent on May 28, 1979, does not seek, or is defeated for, reelection.

➔ For a township in which the office of constable has been abolished, the board of county commissioners may, by resolution, appoint the sheriff ex officio constable to serve without additional compensation.

Sec. 29.7. NRS 267.040 is hereby amended to read as follows:

267.040 1. Nominations of the electors must be made by petition of one-fifth of the qualified voters of the incorporated city.

2. The petition must be filed with the governing body of the city at least 30 days before the day of the election, as provided for in NRS 267.030. ~~(The)~~

3. **Except as otherwise provided in section 18.5 of this act, the** names of all candidates so filed must be placed upon the official ballots to be voted at the election.

Sec. 29.8. NRS 267.050 is hereby amended to read as follows:

267.050 Within 6 working days after the date of the election, the legislative authority of the incorporated city shall:

1. Meet and canvass the returns of the election.
2. Declare the result thereof.

3. Issue certificates of election to the 15 qualified electors having the highest vote therefor ~~for~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the legislative authority of the incorporated city shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 30. NRS 281.050 is hereby amended to read as follows:

281.050 1. The residence of a person with reference to his or her eligibility to any office is the person's actual residence within the State, ~~for~~ county, ~~or~~ district, **ward, subdistrict or any other unit prescribed by law,** as the case may be, during all the period for which residence is claimed by the person. If any person absents himself or herself from the jurisdiction of that person's residence with the intention in good faith to return without delay and continue such residence, the period of absence must not be considered in determining the question of residence.

2. If a person who has filed ~~as a candidate~~ **a declaration of candidacy or acceptance of candidacy** for any elective office moves the person's residence out of the State, county, district, ward, subdistrict or any other unit prescribed by law ~~for which the person is a candidate and~~, **as the case may be,** in which the person is required actually, as opposed to constructively, to reside ~~for a vacancy is created thereby~~ **in order for the person to be eligible to the office, the person is no longer eligible to be a** **is an ineligible candidate** and the **county clerk or city clerk, as applicable, shall take** appropriate action ~~for~~

filling the vacancy ~~as set forth in section 2 or 18 of this act~~ must be taken.] **regarding the ineligible candidate pursuant to section 2 or 18.5 of this act.**

A person shall be deemed to have moved the person's residence for the purposes of this section if:

(a) The person has acted affirmatively to remove himself or herself from one place; and

(b) The person has an intention to remain in another place.

3. The district court has jurisdiction to determine the question of residence in an action for declaratory judgment.

4. **If, in any preelection action for declaratory judgment, the district court finds that a person who has filed a declaration of candidacy or acceptance of candidacy for any elective office fails to meet any qualification concerning residence required for the office pursuant to the Constitution or laws of this State, the person is an ineligible candidate and is subject to the provisions of section 2.5 of this act.**

5. As used in this section ~~["actual"]~~ :

(a) **"Actual residence" means the place of permanent habitation where a person actually resides and is legally domiciled, and maintains a permanent habitation.** If the person maintains more than one ~~such~~ **place of permanent habitation**, the place the person declares to be the person's principal permanent habitation when filing a declaration **of candidacy** or ~~[affidavit pursuant to NRS 293.177 or 293C.185 shall be deemed to]~~ **acceptance of candidacy for any elective office must be the place where the person actually resides and is legally domiciled in order for the person to be eligible to the office.**

(b) **"Declaration of candidacy or acceptance of candidacy" means a declaration of candidacy or acceptance of candidacy filed pursuant to chapter 293 or 293C of NRS.**

Sec. 31. NRS 283.130 is hereby amended to read as follows:

283.130 Any officer elected or appointed to fill any vacancy shall be commissioned, or shall receive a certificate of election or appointment to such office ~~to~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 or 18.5 of this act, a certificate of election or commission must not be issued or given to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 32. NRS 306.070 is hereby amended to read as follows:

306.070 1. If there are no other candidates nominated to be voted for at the special election, there must be printed on the ballot the name of the officer sought to be recalled, the office which he or she holds, and the words "For Recall" and "Against Recall."

2. ~~But~~ **Except as otherwise provided in sections 2 and 18.5 of this act, if** there are other candidates nominated for the office to be voted for at the special election, there must be printed upon the ballot the name of the officer sought to be recalled, and the office which he or she holds, and the name or names of

such other candidates as may be nominated to be voted for at the special election, and the words “For Recall” and “Against Recall” must be omitted.

3. In other respects the ballot must conform with the requirements of this title.

Sec. 33. NRS 309.060 is hereby amended to read as follows:

309.060 **1.** The board of county commissioners shall meet on or before the sixth working day succeeding the election provided for in NRS 309.050 and proceed to canvass the votes. ~~[and, if]~~

2. If, upon the canvass, ~~it~~ appears that a majority of votes cast were for “Local Improvement District—Yes,” the board, by an order entered upon its minutes, shall ~~[declare]~~ :

(a) Declare the territory organized as an improvement district under the name and style theretofore designated ~~[, and]~~ ;

(b) Except as otherwise provided in section 1.7 of this act, declare the persons receiving respectively the highest number of votes for directors to be elected ~~[, and cause]~~ ; **and**

(c) Cause a copy of the order and a plat of the district, each certified by the clerk of the board of county commissioners, to be recorded immediately in the office of the county recorder of each county in which any portion of the district is situated. ~~[, and certified]~~ **Certified** copies thereof must also be recorded with the county clerks of those counties.

3. Thereafter, the organization of the district is complete.

Sec. 34. NRS 318.095 is hereby amended to read as follows:

318.095 Except as otherwise provided in NRS 318.0953:

1. There must be held simultaneously with the first general election in the county after the creation of the district and simultaneously with every general election thereafter an election to be known as the biennial election of the district. The election must be conducted under the supervision of the county clerk or registrar of voters. A district shall reimburse the county clerk or registrar of voters for the costs he or she incurred in conducting the election for the district.

2. The office of trustee is a nonpartisan office. The general election laws of this State govern the candidacy, nominations and election of a member of the board. ~~[The]~~ **Except as otherwise provided in section 2 of this act, the** names of the candidates for trustee of a district may be placed on the ballot for the primary or general election.

3. Except as otherwise provided in NRS 318.083, at the first biennial election in any district organized or reorganized and operating under this chapter and each fourth year thereafter, there must be elected by the qualified electors of the district two qualified electors as members of the board to serve for terms of 4 years. At the second biennial election and each fourth year thereafter, there must be so elected three qualified electors as members of the board to serve for terms of 4 years.

4. The secretary of the district shall give notice of election by publication and shall arrange such other details in connection therewith as the county clerk or registrar of voters may direct.

5. Any new member of the board must qualify in the same manner as members of the first board qualify.

Sec. 35. NRS 318.0951 is hereby amended to read as follows:

318.0951 Except as otherwise provided in NRS 318.0952 or 318.0953, ~~the~~ **and sections 1.7 and 2 of this act:**

1. Each trustee elected at any biennial election must be chosen by a plurality of the qualified electors of the district voting on the candidates for the vacancies to be filled.

2. Except as otherwise provided in NRS 318.083, if there are two regular terms which end on the first Monday in January next following the biennial election, the two qualified electors receiving the highest and next highest number of votes must be elected. If there are three regular terms so ending, the three qualified electors receiving the highest, next highest and third highest number of votes must be elected.

3. If there is a vacancy in an unexpired regular term to be filled at the biennial election, as provided in subsection 5 of NRS 318.090, the candidate who receives the highest number of votes, after there are chosen the successful candidates to fill the vacancies in expired regular terms as provided in subsection 2, must be elected.

Sec. 36. NRS 386.260 is hereby amended to read as follows:

386.260 1. Trustees shall be elected as provided in the election laws of this state.

2. After the close of any election, and in accordance with law, the board of county commissioners shall make abstracts of the votes cast for trustees and shall order the county clerk to issue ~~election~~ certificates **of election** to the candidates elected, ~~and~~ **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the board of county commissioners shall not order the county clerk to issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

3. Immediately, the county clerk shall transmit a copy of each ~~election~~ certificate **of election** to the Superintendent of Public Instruction.

Sec. 37. NRS 450.080 is hereby amended to read as follows:

450.080 Except in counties where the board of county commissioners is the board of hospital trustees, ~~the~~ **and except as otherwise provided in sections 1.7 and 2 of this act:**

1. The offices of hospital trustees are hereby declared to be nonpartisan, and the names of candidates for such offices shall appear alike upon the ballots of all parties at all primary elections.

2. At the general election only the names of those candidates, not to exceed twice the number of hospital trustees to be elected, who received the highest numbers of votes at the primary election shall appear on the ballot.

Sec. 38. NRS 474.110 is hereby amended to read as follows:

474.110 1. The election having been held, the board of county commissioners shall, on the first Monday succeeding the election, if then in session, or at its next succeeding general or special session, proceed to canvass the votes cast at the election.

2. If upon such canvass it appears that a majority of all votes cast in the district, and in each portion of the counties included in the district if lands in more than one county are included therein, are in favor of the formation of the district, the board shall, by an order entered in its minutes, declare:

(a) Such territory organized as a county fire protection district under the name theretofore designated; and

(b) ~~The~~ **Except as otherwise provided in section 1.7 of this act, the** persons receiving, respectively, the highest number of votes for the directors to be elected to those offices.

Sec. 39. NRS 539.055 is hereby amended to read as follows:

539.055 1. The board of county commissioners shall meet on or before the sixth working day succeeding such election and proceed to canvass the votes ~~cast thereat.~~

2. If ~~upon such canvass,~~ it appears that a majority of the electors voted “Irrigation District—Yes,” the board, by an order entered upon its minutes, shall:

(a) Declare such territory duly organized as an irrigation district under the name and style theretofore designated.

(b) ~~Declare~~ **Except as otherwise provided in section 1.7 of this act, declare** the persons receiving respectively the highest number of votes for directors to be duly elected.

(c) Cause a copy of such order and a plat of the district, each duly certified by the clerk of the board of county commissioners, to be immediately filed for record in the office of the county recorder of each county in which any portion of such lands is situated. Certified copies thereof ~~shall~~ **must** also be filed with the county clerks of such counties.

3. Thereafter, the organization of the district ~~shall be~~ **is** complete.

Sec. 40. NRS 539.157 is hereby amended to read as follows:

539.157 1. ~~The~~ **Except as otherwise provided in section 1.7 of this act, the** board of directors must declare elected the person or persons having the highest number of votes given for each office.

2. The secretary shall immediately make out and deliver to such person or persons a certificate of election ~~by~~ signed by the secretary and authenticated with the seal of the board ~~by~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the secretary shall not make out and deliver a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 41. NRS 539.180 is hereby amended to read as follows:

539.180 1. Upon the ballot for the election there shall be printed verbatim, as set forth in the recall petition, the reason for demanding the recall of the director, and in not more than 200 words, if furnished by the director, the director's justification of his or her course in office.

2. If there are no other candidates nominated to be voted for at the special election, there shall be printed on the ballot the name of the director sought to be recalled, the office which he or she holds, and the words "For Recall" and "Against Recall."

3. ~~HH~~ **Except as otherwise provided in section 2 of this act, if** there are other candidates nominated for the office to be voted for at the special election, there shall be printed upon the ballot the name of the director sought to be recalled, and the office which he or she holds, and the name or names of such other candidates as may be nominated to be voted for at the special election, and the words "For Recall" and "Against Recall" shall be omitted.

4. In other respects the ballot shall conform with the requirements of the general election laws of this state.

Sec. 42. NRS 539.183 is hereby amended to read as follows:

539.183 1. ~~HH~~ **Except as otherwise provided in section 1.7 of this act, if** there are other candidates nominated to be voted for at the special election, the candidate who receives the highest number of votes at the special election shall be deemed elected for the remainder of the term, whether it is the person against whom the recall petition was filed or another.

2. If any director is recalled upon a special election and the other candidates are not nominated to be voted for at the special election, the vacancy thereby created shall be filled in the manner provided by law.

Sec. 43. Section 96 of the Charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of municipal elections.

1. All municipal elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. All full terms of office in the City Council are 4 years, and Council Members must be elected at large without regard to precinct residency. Except as otherwise provided in subsection 8, two full-term Council Members and the Mayor are to be elected in each year immediately preceding a federal presidential election, and two full-term Council Members are to be elected in each year immediately following a federal presidential election. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant full-term positions ~~HH~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the ineligible candidate must not be declared elected regardless of the**

number of votes cast for the ineligible candidate that are a nullity and void. (Add. 17; Amd. 1; 11-5-1996)

3. In the event one or more 2-year term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such position(s). Candidates receiving the greatest respective number of votes must be declared elected to the respective available 2-year positions ~~[-]~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the ineligible candidate must not be declared elected regardless of the number of votes cast for the ineligible candidate that are a nullity and void.** (Add. 15; Amd. 2; 6-4-1991)

4. Except as otherwise provided in subsection 8, a primary municipal election must be held on the first Tuesday after the first Monday in April of each odd-numbered year and a general municipal election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.

5. A primary municipal election must not be held if no more than double the number of Council Members to be elected file as candidates. A primary municipal election must not be held for the office of Mayor if no more than two candidates file for that position. The primary municipal election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council Members to be elected. (Add. 17; Amd. 1; 11-5-1996)

6. If, in the primary municipal election, a candidate receives votes equal to a majority of voters casting ballots in that election, ~~he or she~~ **the candidate** shall be considered elected to one of the vacancies and his or her name shall not be placed on the ballot for the general municipal election ~~[-]~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the ineligible candidate must not be considered elected regardless of the number of votes cast for the ineligible candidate that are a nullity and void.** (Add. 10; Amd. 7; 6-2-1981)

7. In each primary and general municipal election, voters are entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the municipal elections. (Add. 11; Amd. 5; 6-7-1983)

8. 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.

9. If the City Council adopts an ordinance pursuant to subsection 8, the dates set forth in NRS 293.12755, ~~in subsections 2 to 5, inclusive, of NRS~~ 293.165 ~~and in NRS~~, **293.166**, 293.175, 293.177 ~~[-]~~ **and** 293.345 and ~~293.368~~ **section 2 of this act** apply for the purposes of conducting the primary municipal elections and general municipal elections.

10. If the City Council adopts an ordinance pursuant to subsection 8, 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.

11. The conduct of all municipal elections must be under the control of the City Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the City Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud. (Add. 24; Amd. 1; 6-3-2003)

Sec. 44. Section 5.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as last amended by chapter 263, Statutes of Nevada 2013, at page 1182, is hereby amended to read as follows:

Sec. 5.010 Municipal elections.

1. Except as otherwise provided in subsection 2:

(a) On the first Tuesday after the first Monday in June 1973, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and one Council Member who shall hold office for a period of 4 years and until their successors have been elected and qualified.

(b) On the first Tuesday after the first Monday in June 1975, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, two Council Members who shall hold office for a period of 4 years and until their successors have been elected and qualified.

(c) On the first Tuesday after the first Monday in June 1975, there shall be elected by the qualified voters of the City at a general municipal election to be held for that purpose one Council Member who shall hold office for a period of 2 years and until his or her successor has been elected and qualified.

(d) On the first Tuesday after the first Monday in June 1977, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and two Council Members, who shall hold office for a period of 4 years and until their successors have 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]~~, **293.166**, 293.175, 293.177 ~~[,]~~ **and** 293.345 and ~~[293.369]~~ **section 2 of this act** 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 term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

Sec. 45. Section 5.050 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1728, is hereby amended to read as follows:

Sec. 5.050 Names on ballots.

1. ~~[The full names of all candidates, except those]~~ **Except for candidates** who have withdrawn ~~[, died]~~ **pursuant to the election laws of this State or who are** or become ineligible ~~[,]~~ **candidates whose names must be removed from the ballot pursuant to section 18.5 of this act, the full names of all candidates** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 46. Section 5.100 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as amended by chapter 185, Statutes of Nevada 2007, at page 627, 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 municipal election shall be filed with the City Clerk, who shall immediately place such returns in a safe or vault, and no person shall be permitted to handle, inspect or in any manner interfere with such returns until canvassed by the City Council.

2. The City Council shall meet within 6 working days after any election and canvass the returns and declare the result. The election returns shall then be sealed and kept by the City Clerk for 6 months, and no person shall have access thereto 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 declared to be elected a certificate of election ~~[,]~~ **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.** The officers ~~[or]~~ **who are** elected shall qualify and enter upon the discharge of their respective duties on the first Monday in July next following their election.

4. If any election should result 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 ~~[1]~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 47. Section 5.015 of the Charter of the City of Carlin, being chapter 493, Statutes of Nevada 2009, as amended by chapter 501, Statutes of Nevada 2011, at page 3310, is hereby amended to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

~~[1]~~ A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk as provided by the election laws of this State. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

~~[2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.]~~

Sec. 48. Section 5.040 of the Charter of the City of Carlin, being chapter 493, Statutes of Nevada 2009, at page 2937, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. ~~[The full names of all candidates, except those]~~ **Except for candidates** who have withdrawn ~~[, died]~~ **pursuant to the election laws of this State or who are** or become ineligible ~~[before the close of filing and any applicable period for withdrawal of candidacy,]~~ **candidates whose names must be removed from the ballot pursuant to section 18.5 of this act, the full names of all candidates** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 49. Section 5.090 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, as last amended by chapter 185, Statutes of Nevada 2007, at page 628, is hereby amended to read as follows:

Sec. 5.090 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any municipal election shall be filed with the City Clerk, who shall immediately place such returns in a safe or vault, and no person is permitted to handle, inspect or in any manner interfere with such returns until canvassed by the Board of Council Members.

2. The Board of Council Members shall meet on or before the sixth working day 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, and no person shall have access thereto except on order of a court of competent jurisdiction or by order of the Board of Council Members.

3. The City Clerk, under his or her hand and official seal, shall issue to each person declared to be elected a certificate of election ~~to~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.** The officers ~~who~~ **are** elected shall qualify and enter upon the discharge of their respective duties on the first Monday in:

(a) July next following their election for those officers elected in June 2007.

(b) January next following their election for those officers elected in November 2008 and November of every even-numbered year thereafter.

4. If any election should result in a tie, the Board of Council Members 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 ~~to~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 50. Section 5.010 of the charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 100, Statutes of Nevada 1999, at page 271, is hereby amended to read as follows:

Sec. 5.010 Primary election.

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

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

3. All candidates for the office of Mayor and Supervisor, and candidates for the office of Municipal Judge if a third department of the

Municipal Court has been established, must be voted upon by the registered voters of Carson City at large.

4. **Except as otherwise provided in sections 1.7 and 2 of this act:**

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

~~5.~~ **(b)** If in the primary election one candidate receives more than a majority of votes cast in that election for the office for which he or she is a candidate, his or her name alone must be placed on the ballot for the general election.

(c) If in the primary 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 numbers of votes must be placed on the ballot for the general election.

Sec. 51. Section 5.050 of the charter of Carson City, being chapter 213, Statutes of Nevada 1969, as amended by chapter 312, Statutes of Nevada 2003, at page 1729, is hereby amended to read as follows:

Sec. 5.050 Names on ballots.

1. ~~[The full names of all candidates, except those]~~ **Except for candidates** who have withdrawn ~~[, died]~~ **pursuant to the election laws of this State or who are** or become ineligible ~~[,]~~ **candidates whose names must be removed from the ballot pursuant to section 2 of this act, the full names of all candidates** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 52. Section 5.100 of the charter of Carson City, being chapter 213, Statutes of Nevada 1969, as amended by chapter 189, Statutes of Nevada 1977, at page 354, is hereby amended to read as follows:

Sec. 5.100 Election returns; canvass; certificates of election; entry of officers upon duties.

1. The election returns from any special, primary or general municipal election shall be filed with the Clerk, who shall immediately place such returns in a safe or vault, and no person shall be permitted to handle, inspect or in any manner interfere with such returns until canvassed by the Board.

2. The Board shall meet within 10 days after any election and canvass the returns and declare the result. The election returns shall then be sealed and kept by the Clerk for 6 months and no person shall have access thereto except on order of a court of competent jurisdiction or by order of the Board.

3. The Clerk, under his or her hand and official seal, shall issue to each person declared to be elected a certificate of election ~~but~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 2 of this act, the Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.** The officers ~~too~~ **who are** elected shall qualify and enter upon the discharge of their respective duties on the 1st Monday in January next following their election.

Sec. 53. Section 5.040 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1729, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. ~~[The full names of all candidates, except those]~~ **Except for candidates** who have withdrawn ~~[, died]~~ **pursuant to the election laws of this State or who are** or become ineligible ~~[,]~~ **candidates whose names must be removed from the ballot pursuant to section 18.5 of this act, the full names of all candidates** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 54. Section 5.090 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as last amended by chapter 231, Statutes of Nevada 2011, at page 1003, is hereby amended to read as follows:

Sec. 5.090 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from a municipal election must be filed with the City Clerk, who shall immediately place the returns in a safe or vault. No person may handle, inspect or in any manner interfere with the returns until the returns are canvassed by the City Council.

2. The City Council shall meet within 6 working days after an election and canvass the returns and declare the result. The election returns must be sealed and kept by the City Clerk for 2 years, and no person may have access thereto 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 declared to be elected a certificate of election ~~but~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and**

void. The officers ~~so~~ **who are** elected shall qualify and enter upon the discharge of their respective duties on the first Monday in:

(a) If the officer is elected pursuant to subsection 1 or 2 of section 5.010, July next following his or her election.

(b) If the officer is elected pursuant to subsection 3 or 4 of section 5.010, January next following his or her election.

4. If any election should result 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 ~~[-], except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.~~

Sec. 55. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 266, Statutes of Nevada 2013, at page 1214, 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. **Except as otherwise provided in sections 18.3 and 18.5 of this act:**

(a) 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.

(b) 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. 56. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 266, Statutes of Nevada 2013, at page 1215, 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, 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 293.166, 293.175, 293.177, and 293.345 and 293.368)~~ **section 2 of this act** 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. 57. Section 5.050 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 312, Statutes of Nevada 2003, at page 1729, is hereby amended to read as follows:

Sec. 5.050 Names on ballots.

1. ~~[The full names of all candidates, except those]~~ **Except for candidates** who have withdrawn ~~[, died]~~ **pursuant to the election laws of this State or who are** or become ineligible ~~[,]~~ **candidates whose names must be removed from the ballot pursuant to section 18.5 of this act, the full names of all candidates** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 58. Section 5.100 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 266, Statutes of Nevada 2013, at page 1216, 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 ~~[,]~~ **, except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.** Except as otherwise provided in section 1.070, the officers ~~[,]~~ **who are** elected shall qualify and enter upon the discharge of their respective duties at the second regular meeting of the City Council 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 ~~[,]~~ **, except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the**

number of votes cast for the ineligible candidate that are a nullity and void.

Sec. 59. Section 5.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 218, Statutes of Nevada 2011, at page 959, is hereby amended to read as follows:

Sec. 5.010 Primary municipal elections. Except as otherwise provided in section 5.020:

1. On the Tuesday after the first Monday in April 2001, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for half of the offices of Council Member and for Municipal Judge, Department 2, must be nominated.

2. On the Tuesday after the first Monday in April 2003, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for Mayor, for the other half of the offices of Council Member and for Municipal Judge, Department 1, must be nominated.

3. The candidates for Council Member who are to be nominated as provided in subsections 1 and 2 must be nominated and voted for separately according to the respective wards. The candidates from each even-numbered ward must be nominated as provided in subsection 1, and the candidates from each odd-numbered ward must be nominated as provided in subsection 2.

4. If the City Council has established an additional department or departments of the Municipal Court pursuant to section 4.010 and, as a result, more than one office of Municipal Judge is to be filled at any election, the candidates for those offices must be nominated and voted upon separately according to the respective departments.

5. Each candidate for the municipal offices which are provided for in subsections 1, 2 and 4 must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be paid into the City Treasury.

6. **Except as otherwise provided in sections 18.3 and 18.5 of this act:**

(a) If, in the primary municipal election, regardless of the number of candidates for an office, one candidate receives a majority of votes which are cast in that election for the office for which he or she is a candidate, he or she must be declared elected for the term which commences on the day of the first regular meeting of the City Council next succeeding the meeting at which the canvass of the returns is made, and no general municipal election need be held for that office.

(b) If, in the primary municipal election, no candidate receives a majority of votes which are cast in that election for the office for which he or she is a candidate, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general municipal election.

Sec. 60. Section 5.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 263, Statutes of Nevada 2013, at page 1183, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. Except as otherwise provided in subsection 2, a general municipal election must be held in the City on the Tuesday after the first Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time there must be elected those officers whose offices are required to be filled by election in that year.

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], 293.166, 293.175, 293.177, [and] 293.345 and [293.368]~~ **section 2 of this act** 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.

5. All candidates for elective office, except the office of Council Member, must be voted upon by the registered voters of the City at large.

Sec. 61. Section 5.050 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 312, Statutes of Nevada 2003, at page 1730, is hereby amended to read as follows:

Sec. 5.050 Names on ballots.

1. ~~[The full names of all of the candidates, except those]~~ **Except for candidates** who have withdrawn ~~[, died]~~ **pursuant to the election laws of this State or who are** or become ineligible ~~[,]~~ **candidates whose names must be removed from the ballot pursuant to section 18.5 of this act, the full names of all candidates** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same name or names which are so similar as likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballots; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 62. Section 5.100 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as amended by chapter 193, Statutes of Nevada 1991, at page 364, is hereby amended to read as follows:

Sec. 5.100 Election returns; canvass; declaration of results; certificates of election; entry of officers upon duties; procedure for tied vote.

1. The returns of any special, primary or general municipal election must be filed with the City Clerk, who shall immediately place those returns in a safe or vault, and no person may be permitted to handle, inspect or in any manner interfere with those returns until they have been canvassed by the City Council.

2. The City Council shall meet within 10 days after any election, canvass the returns and declare the result. The election returns must then be sealed and kept by the City Clerk for 6 months, and 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 who is declared to be elected a certificate of election ~~to~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.** The officers who ~~have been~~ **are** elected shall qualify and enter upon the discharge of their respective duties on the day of the first regular meeting of the City Council next succeeding the meeting at which the canvass of the returns is made.

4. If the election for any office results in a tie, the City Council shall summon the candidates who received the equal number of votes and determine the tie by lot. The City Clerk shall then issue to the winner a certificate of election ~~to~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 63. Section 5.020 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 218, Statutes of Nevada 2011, at page 963, is hereby amended to read as follows:

Sec. 5.020 Primary municipal elections; declaration of candidacy.

1. The City Council shall provide by ordinance for candidates for elective office to declare their candidacy and file the necessary documents. The seats for City Council Members must be designated by the numbers one through four, which numbers must correspond with the wards the candidates for City Council Members will seek to represent. A

candidate for the office of City Council Member shall include in his or her declaration of candidacy the number of the ward which he or she seeks to represent. Each candidate for City Council must be designated as a candidate for the City Council seat that corresponds with the ward that he or she seeks to represent.

2. Except as otherwise provided in section 5.025, a primary municipal election must be held on the Tuesday following the first Monday in April preceding the general municipal election, at which time there must be nominated candidates for offices to be voted for at the next general municipal election. In the primary municipal election:

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

(b) Candidates for all other elective offices must be voted upon by the registered voters of the City at large.

3. Except as otherwise provided in ~~subsection 4,~~ **sections 18.3 and 18.5 of this act**, after the primary municipal election, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general municipal election ~~for~~.

~~4. If,~~ **but**, regardless of the number of candidates for an office, **if** one candidate receives a majority of the total votes cast for that office in the primary municipal election, he or she must be declared elected to that office and no general municipal election ~~need~~ **must** be held for that office.

Sec. 64. Section 5.025 of the Charter of the City of North Las Vegas, being chapter 218, Statutes of Nevada 2011, as amended by chapter 263, Statutes of Nevada 2013, at page 1184, is hereby amended to read as follows:

Sec. 5.025 City Council authorized to provide for primary and general municipal elections in even-numbered years.

1. 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.

2. If the City Council adopts an ordinance pursuant to subsection 1, the dates set forth in NRS 293.12755, ~~in subsections 2 to 5, inclusive, of NRS~~ 293.165 ~~and in NRS~~, **293.166**, 293.175, 293.177 ~~and~~ 293.345 and ~~293.369~~ **section 2 of this act** apply for the purposes of conducting the primary municipal elections and general municipal elections.

3. If the City Council adopts an ordinance pursuant to subsection 1, 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. 65. Section 5.050 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 312, Statutes of Nevada 2003, at page 1730, is hereby amended to read as follows:

Sec. 5.050 Names on ballots.

1. ~~[The full names of all candidates, except those]~~ **Except for candidates** who have withdrawn ~~[, died]~~ **pursuant to the election laws of this State or who are** or become ineligible ~~[,]~~ **candidates whose names must be removed from the ballot pursuant to section 18.5 of this act, the full names of all candidates** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

3. In any election regulated by this Charter, the names of candidates as printed on the ballot shall not include any title, designation or other reference which will indicate the profession or occupation of such candidates.

Sec. 66. Section 5.080 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 465, Statutes of Nevada 1985, at page 1440, is hereby amended to read as follows:

Sec. 5.080 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 shall be filed with the City Clerk, who shall immediately place the returns in a safe or vault, and no person may be permitted to 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 16 days after any election and shall canvass the returns and declare the result. The election returns must then be sealed and kept by the City Clerk for 6 months, and no person may have access thereto 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 declared to be elected a certificate of election ~~[,]~~ **, except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.** The officers ~~[, or]~~ **who are** elected shall qualify and enter upon the

discharge of their respective duties on the 1st day of July next following their election.

4. If any election should result 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 ~~that~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 67. Section 5.020 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 349, Statutes of Nevada 2013, at page 1829, is hereby amended to read as follows:

Sec. 5.020 Primary elections; declaration of candidacy.

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

2. **Except as otherwise provided in sections 18.3 and 18.5 of this act:**

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

~~(b)~~ **(b)** In the primary election:

~~(a)~~ **(1)** The names of the two candidates for Municipal Judge, City Attorney or a particular City Council seat, as the case may be, who receive the highest number of votes must be placed on the ballot for the general election.

~~(b)~~ **(2)** Candidates for Council Member who represent a specific ward must be voted upon only by the registered voters of that ward.

~~(c)~~ **(3)** Candidates for Mayor and Council Member at large must be voted upon by all registered voters of the City.

~~(4)~~ **3.** The Mayor and all Council Members must be voted upon by all registered voters of the City at the general election.

Sec. 68. Section 5.050 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1730, is hereby amended to read as follows:

Sec. 5.050 Names on ballots.

1. ~~[The full names of all candidates, except those]~~ **Except for candidates who have withdrawn, died, pursuant to the election laws of this State or who are or become ineligible, candidates whose names must be removed from the ballot pursuant to section 18.5 of this act, the full names of all candidates** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 69. Section 5.100 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 349, Statutes of Nevada 2013, at page 1830, 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 election must be filed with the City Clerk, who shall immediately place those returns in a safe or vault, and no person may handle, inspect or in any manner interfere with those returns until canvassed by the City Council.

2. The City Council and City Manager shall meet 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, and no person may have access thereto 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 declared to be elected a certificate of election ~~and~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.** The officers **who are** elected shall qualify and enter upon the discharge of their respective duties at the first regular City Council meeting following their 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 as provided in this subsection. The City Clerk shall provide and open in the presence of the candidates who received the tie vote an unused 52-card deck of playing cards, removing any jokers and blank cards. The City Clerk shall shuffle the cards thoroughly and present the shuffled deck to the City Manager, or to the person designated by the City Manager for this purpose. One of the candidates who received the tie vote shall then draw

one card from the deck, and the City Clerk shall record the suit and number of the card. The card then must be returned to the deck, and the City Clerk shall shuffle the cards thoroughly and present the shuffled deck to the City Manager, or to the person designated by the City Manager for this purpose, and another of the candidates who received the tie vote shall draw one card from the deck. This process must be repeated until each of the candidates who received the tie vote has drawn one card from the deck and the result of each draw has been recorded. The candidate who draws the high card shall be deemed the winner of the election. For the purposes of this subsection, aces are high and twos are low. If the candidates draw cards of otherwise equal value, the card of the higher suit is the high card. Spades are highest, followed in descending order by hearts, clubs and diamonds. The City Clerk shall issue to the winner a certificate of election ~~to the winner~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 70. Section 5.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 398, is hereby amended to read as follows:

Sec. 5.020 Primary elections.

1. Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large. Candidates to represent a ward as a member of the City Council must be voted upon by the registered voters of the ward to be represented by them.

2. ~~The~~ **Except as otherwise provided in sections 18.3 and 18.5 of this act, the** names of the two candidates for Mayor, City Attorney and Municipal Judge and the names of the two candidates to represent the ward as a member of the City Council from each ward who receive the highest number of votes at the primary election must be placed on the ballot for the general election.

Sec. 71. Section 5.050 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as amended by chapter 312, Statutes of Nevada 2003, at page 1731, is hereby amended to read as follows:

Sec. 5.050 Names on ballots.

1. ~~The full names of all candidates, except those~~ **Except for candidates** who have withdrawn ~~or died~~ **pursuant to the election laws of this State or who are** or become ineligible ~~or~~ **candidates whose names must be removed from the ballot pursuant to section 18.5 of this act, the full names of all candidates** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 72. Section 5.100 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 399, 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 election must be filed with the City Clerk, who shall immediately place the returns in a safe or vault. 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 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 22 months, and no person may have access to them 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 a certificate of election to each person elected ~~to~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.** The officers **who are** elected shall qualify and enter upon the discharge of their respective duties at the first regular City Council meeting following their 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 ~~to~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 73. Section 5.015 of the Charter of the City of Wells, being chapter 493, Statutes of Nevada 2009, as amended by chapter 501, Statutes of Nevada 2011, at page 3310, is hereby amended to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

~~to~~ A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk as provided by the election

laws of this State. The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

~~{2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.}~~

Sec. 74. Section 5.040 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as last amended by chapter 493, Statutes of Nevada 2009, at page 2938, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. ~~{The full names of all candidates, except those}~~ **Except for candidates** who have withdrawn ~~{, died}~~ **pursuant to the election laws of this State or who are** or become ineligible ~~{before the close of filing and any applicable period for withdrawal of candidacy,}~~ **candidates whose names must be removed from the ballot pursuant to section 18.5 of this act, the full names of all candidates** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 75. Section 5.090 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as last amended by chapter 185, Statutes of Nevada 2007, at page 629, is hereby amended to read as follows:

Sec. 5.090 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any municipal election must be filed with the City Clerk, who shall immediately place such returns in a safe or vault, and no person is permitted to handle, inspect or in any manner interfere with such returns until canvassed by the Board of Council Members.

2. The Board of Council Members shall meet on or before the sixth working day 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, and no person shall have access thereto except on order of a court of competent jurisdiction or by order of the Board of Council Members.

3. The City Clerk, under his or her hand and official seal, shall issue to each person declared to be elected a certificate of election ~~{,}~~ **, except**

that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void. The officers ~~for~~ **who are** elected shall qualify and enter upon the discharge of their respective duties on the first Monday in:

(a) July next following their election for those officers elected in June 2007 or 2009.

(b) January next following their election for those officers elected in November 2010 and every even-numbered year thereafter.

4. If any election should result in a tie, the Board of Council Members 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 ~~for~~, **except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.**

Sec. 76. Section 5.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as last amended by chapter 263, Statutes of Nevada 2013, at page 1184, is hereby amended to read as follows:

Sec. 5.010 Municipal elections.

1. Except as otherwise provided in subsection 2:

(a) On the first Tuesday after the first Monday in June 1975, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

(b) On the first Tuesday after the first Monday in June 1977, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, two Council Members, who shall hold office for a period of 4 years and until their successors have 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 293.166, 293.175, 293.177, and 293.345 and 293.368)~~ **section 2 of this act** 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 term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

Sec. 77. Section 5.040 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as amended by chapter 312, Statutes of Nevada 2003, at page 1731, is hereby amended to read as follows:

Sec. 5.040 Names on ballots.

1. ~~[The full names of all candidates, except those]~~ **Except for candidates** who have withdrawn ~~[, died]~~ **pursuant to the election laws of this State or who are** or become ineligible ~~[,]~~ **candidates whose names must be removed from the ballot pursuant to section 18.5 of this act, the full names of all candidates** must be printed on the official ballots without party designation or symbol.

2. If two or more candidates have the same surname or surnames so similar as to be likely to cause confusion and:

(a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot; or

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

Sec. 78. Section 5.090 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, at page 913, is hereby amended to read as follows:

Sec. 5.090 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any municipal election shall be filed with the City Clerk, who shall immediately place such returns in a safe or vault, and no person shall be permitted to handle, inspect or in any manner interfere with such returns until canvassed by the City Council.

2. The City Council shall meet within 10 days after any election and canvass the returns and declare the results. The election returns shall then be sealed and kept by the City Clerk for 6 months, and no person shall have access thereto 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 declared to be elected a certificate of election ~~[,]~~ **, except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.** The officers ~~[, or]~~ **who are** elected shall qualify and enter upon the discharge of their respective duties on the 1st Monday in July next following their election.

4. If any election should result 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 ~~[.]~~, except that if the name of an ineligible candidate could not be removed from the ballot pursuant to section 18.5 of this act, the City Clerk shall not issue a certificate of election to the ineligible candidate regardless of the number of votes cast for the ineligible candidate that are a nullity and void.

Sec. 79. Section 7 of the Moapa Valley Water District Act, being chapter 477, Statutes of Nevada 1983, as last amended by chapter 28, Statutes of Nevada 2011, at page 93, is hereby amended to read as follows:

Sec. 7. 1. Unless otherwise required for purposes of an election to incur an indebtedness, the Registrar of Voters of Clark County shall conduct, supervise and, by ordinance, regulate all district elections in accordance, as nearly as practicable, with the general election laws of the State, including, but not limited to, laws relating to the time of opening and closing of polls, the manner of conducting the election, the canvassing, announcement and certification of results, and the preparation and disposition of ballots.

2. A candidate for election to the Board shall file a declaration of candidacy with the Registrar of Voters of Clark County. The declaration of candidacy must be filed not earlier than the first Monday in March of the year in which the election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March of that year. Timely filing of such a declaration is a prerequisite to election.

3. Each member of the Board must be elected by a plurality of the registered voters voting in the election area which the member represents. ~~[[[~~ Except as otherwise provided in section 1.7 of this act, if there are two seats upon the Board to be filled at the same election, each of which represents the same election area, the two candidates therefor receiving the highest number of votes, respectively, are elected.

4. If a member of the Board is unopposed in seeking reelection, the Board may declare that member elected without a formal election, but that member must not participate in the declaration.

5. If no person files candidacy for election to a particular seat upon the Board, the seat must be filled in the manner of filling a vacancy.

Sec. 80. Section 8 of the Virgin Valley Water District Act, being chapter 100, Statutes of Nevada 1993, as last amended by chapter 353, Statutes of Nevada 2013, at page 1850, is hereby amended to read as follows:

Sec. 8. 1. Unless otherwise required for purposes of an election to incur an indebtedness, the Registrar of Voters of Clark County shall conduct, supervise and, by ordinance, regulate all district elections in accordance, as nearly as practicable, with the general election laws of this state, including, but not limited to, laws relating to the time of opening and closing of polls, the manner of conducting the election, the

canvassing, announcement and certification of results and the preparation and disposition of ballots.

2. Each candidate for election to the Board must file a declaration of candidacy with the Registrar of Voters not earlier than the first Monday in March of the year in which the election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March. Timely filing of such declaration is a prerequisite to election.

3. ~~##~~ **Except as otherwise provided in section 1.7 of this act, if** the Board establishes various election areas within the District and there are two or more seats upon the Board to be filled at the same election, each of which represents the same election area, the two candidates therefor receiving the highest number of votes, respectively, are elected.

4. If a member of the Board is unopposed in seeking reelection, the Board may declare that member elected without a formal election, but that member may not participate in the declaration.

5. If no person files candidacy for election to a particular seat upon the Board, the seat must be filled in the manner provided in subsection 3 of section 7 of this act for filling a vacancy.

~~[Sec. 31.]~~ **Sec. 81.** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[Sec. 32.]~~ **Sec. 82.** NRS ~~[293.166,]~~ 293.302, 293.368, ~~[293C.190,]~~ 293C.291 and 293C.370 are hereby repealed.

~~[Sec. 33.]~~ **Sec. 83.** This act becomes effective:

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

2. On January 1, 2016, for all other purposes.

LEADLINES OF REPEALED SECTIONS

~~[293.166 Procedure for filling vacancy in party nomination for office of State Legislator from multicounty legislative district.]~~

293.302 Posting of notice of death of candidate at polling place.

293.368 Counting of votes cast for deceased candidate.

~~[293C.190 Procedure for filling vacancy in nomination.]~~

293C.291 Posting of notice of death of candidate at polling place.

293C.370 Counting of votes cast for deceased candidate.

Assemblyman Stewart moved the adoption of the amendment.

Remarks by Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Assembly Bill 177 relates to candidates for public office. Amendment 222 makes the following changes: it defines an ineligible candidate, it revises residency requirements for candidates, it defines actual residence, and it prohibits the filling of vacancies in nominations in certain circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 226.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 406.

SUMMARY—Revises provisions for the payment of certain undergraduate fees and expenses of ~~for certain dependent child of a public safety officer killed in the line of duty.~~ children. (BDR 34-1010)

AN ACT relating to education; expanding the provisions that require the Board of Regents of the University of Nevada to pay undergraduate fees and expenses of a dependent child of a public safety officer killed in the line of duty to include the child of ~~for any other public employee killed while at work,~~ any other public employee killed in the performance of his or her duty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of Regents of the University of Nevada, to the extent money is available, to pay certain fees and expenses associated with undergraduate classes taken at a school within the Nevada System of Higher Education by the dependent child of a public safety officer who was killed while performing his or her duties. (NRS 396.545) This ~~bill~~ bill expands the applicability of this provision to include the payment of those fees and expenses for a dependent child of ~~for any other public employee who was killed while at work,~~ any other public employee who was killed in the performance of his or her duty.

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

Section 1. NRS 396.545 is hereby amended to read as follows:

396.545 1. To the extent of money available for this purpose, the Board of Regents shall pay all registration fees, laboratory fees and expenses for required textbooks and course materials assessed against or incurred by a dependent child of a public safety officer who was killed in the line of duty ~~for any other public employee who was killed while at work,~~ or for any other public employee who was killed in the performance of his or her duty, for classes taken towards satisfying the requirements of an undergraduate degree at a school within the System. No such payment may be made for any fee assessed after the child reaches the age of 23 years.

2. There is hereby created in the State General Fund a Trust Account for the Education of Dependent Children. The Board of Regents shall administer the Account. The Board of Regents may accept gifts and grants for deposit in the Account. All money held by the State Treasurer or received by the Board of Regents for that purpose must be deposited in the Account. The money in the Account must be invested as the money in other state accounts is invested. After deducting all applicable charges, all interest and income earned on the

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

3. For each fiscal year, the Board of Regents shall estimate:

(a) The amount of money in the Trust Account that is available to make payments pursuant to subsection 1 for that fiscal year; and

(b) The anticipated amount of such payments for that fiscal year.

➔ If the anticipated amount of payments estimated for the fiscal year exceeds the estimated amount of money available in the Account in the fiscal year for such payments, the Board of Regents may request an allocation from the Contingency Account created in the State General Fund pursuant to NRS 353.266 to cover the projected shortfall.

4. As used in this section:

(a) “Firefighter” means a person who is a salaried employee or volunteer member of a:

(1) Fire prevention or suppression unit organized by a local government and whose principal duty is to control and extinguish fires; or

(2) Fire-fighting agency.

(b) “Fire-fighting agency” has the meaning ascribed to it in NRS 450B.072.

(c) “Local government” means a county, city, unincorporated town or metropolitan police department.

(d) “Member of a rescue or emergency medical services crew” means:

(1) A member of a search and rescue organization in this State under the direct supervision of any county sheriff;

(2) A person licensed as an attendant pursuant to chapter 450B of NRS if the person is a salaried employee of a public agency and is not retained under contract to perform services for the public agency;

(3) A person certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS if the person is a salaried employee or volunteer of a public agency and is not retained under contract to perform services for the public agency; or

(4) A volunteer attendant as that term is defined in NRS 450B.110.

(e) “Peace officer” means a category I peace officer, category II peace officer or category III peace officer as those terms are defined in NRS 289.460, 289.470 and 289.480, respectively.

(f) “Public agency” means an agency, bureau, commission, department or division of the State of Nevada or a political subdivision of the State of Nevada that provides police, firefighting, rescue or emergency medical services.

(g) *“Public employee” means any person who performs public duties for compensation paid by or through the State, a county, city, local government or other political subdivision of the State or an agency thereof.*

(h) *“Public employee who was killed in the performance of his or her duty” includes, without limitation, a public employee who dies as a result of injuries sustained in the performance of his or her duty.*

(i) “Public safety officer” means a person serving a public agency in an official capacity, with or without compensation, as a peace officer, a firefighter or a member of a rescue or emergency medical services crew.

(j) “Public safety officer who was killed in the line of duty” includes, without limitation, a public safety officer who dies as a result of injuries sustained in the line of duty.

Sec. 2. This act becomes effective on July 1, 2015.

Assemblywoman Woodbury moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 249.

Bill read second time.

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

Amendment No. 522.

AN ACT relating to local governments; authorizing the Local Government Employee-Management Relations Board to appoint a Deputy Commissioner; requiring that a copy of a proposed collective bargaining agreement or similar agreement of a local government employer be made available to the public before its approval by the governing body of the local government; revising the process of fact-finding and arbitration following an impasse in bargaining; removing a portion of the budgeted ending fund balance of the general fund of a local government from the scope of collective bargaining and from consideration by a fact finder or arbitrator; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The Local Government Employee-Management Relations Board administers the provisions governing labor relations between local government employers and employee organizations. (NRS 288.080, 288.110) The Board is authorized by existing law to appoint a Commissioner, who serves in the unclassified service of the State. (NRS 288.090) Section 2.5 of this bill additionally authorizes the Board to appoint a Deputy Commissioner and section 8.5 of this bill makes an appropriation for that purpose.

Existing law provides that any new, extended or modified collective bargaining agreement or similar agreement between a local government employer and an employee organization must be approved at a public hearing by the governing body of the local government. At such a hearing, the chief executive officer of the local government must report on the fiscal impact of the proposed agreement. (NRS 288.153) **Section 4** of this bill requires that a copy of the proposed agreement be posted on the Internet website of the local government or deposited with the county clerk not less than 21 days before the date of such a hearing. In addition, **sections 1 and 4** of this bill require the

chief executive officer to report whether the agreement is financially sustainable, meaning that the local government employer has the financial ability to pay compensation or monetary benefits in a given amount during the term of the agreement or for 3 years, whichever is longer, giving consideration to reserved money, nonrecurring revenue or a potential loss of revenue.

If an impasse is reached in collective bargaining negotiations, existing law establishes a process of fact-finding and arbitration. Existing law requires a fact finder to make a determination of the financial ability of the local government to grant monetary benefits. After the fact finder makes his or her report, the governing body of the local government employer must meet to consider the fiscal impact of the fact finder's findings and recommendations, based upon a report from the chief executive officer of the local government. (NRS 288.200) **Section 5** of this bill requires that the fact finder make a determination of the amount of compensation and monetary benefits that is financially sustainable for the local government employer, and that the chief executive officer and governing body also report on and consider whether the fact finder's findings and recommendations are financially sustainable. **Sections 6 and 7** of this bill make similar changes relating to the process of final and binding arbitration.

Existing law limits the extent to which money in certain governmental funds may be expended by a local government employer pursuant to a collective bargaining agreement or considered by a fact finder or arbitrator in determining the financial ability of the local government employer to pay monetary benefits. (NRS 288.200, 288.215, 288.217, 354.6241) **Sections 3 and 8** of this bill provide that a budgeted ending fund balance for the general fund of a local government of not more than 25 percent of the total budgeted expenditures from the general fund, less capital outlay: (1) is not subject to collective bargaining negotiations; and (2) must not be considered by a fact finder or arbitrator in resolving issues of ability to pay or financial sustainability. **Section 8 further provides that a fact finder or arbitrator may consider certain money previously reserved by a local government employer if the governing body of the local government employer makes a finding that the continued reservation of the money is no longer necessary.**

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

Section 1. Chapter 288 of NRS is hereby amended by adding thereto a new section to read as follows:

“Financially sustainable” means that a local government employer has the financial ability to pay compensation and monetary benefits in a given amount during the term of a collective bargaining agreement or for 3 years, whichever is longer, giving consideration to the limitations set forth in NRS 354.6241, any nonrecurring revenue or potential loss of revenue and

the other criteria set forth in NRS 288.200, 288.215 and 288.217, as applicable.

Sec. 2. NRS 288.020 is hereby amended to read as follows:

288.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 288.025 to 288.075, inclusive, **and section 1 of this act** have the meanings ascribed to them in those sections.

Sec. 2.3. NRS 288.034 is hereby amended to read as follows:

288.034 “Commissioner” means the Commissioner or Deputy Commissioner appointed by the Board.

Sec. 2.5. NRS 288.090 is hereby amended to read as follows:

288.090 1. The members of the Board shall annually elect one of their number as Chair and one as Vice Chair. Any two members of the Board constitute a quorum.

2. The Board may, within the limits of legislative appropriations and any other available money:

(a) Appoint a Commissioner, Deputy Commissioner and a Secretary, who are in the unclassified service of the State; and

(b) Employ such additional clerical personnel as may be necessary, who are in the classified service of the State.

Sec. 3. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as provided in subsection 4 ~~1~~ **and NRS 354.6241**, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

- (a) Salary or wage rates or other forms of direct monetary compensation.
- (b) Sick leave.
- (c) Vacation leave.
- (d) Holidays.
- (e) Other paid or nonpaid leaves of absence.
- (f) Insurance benefits.
- (g) Total hours of work required of an employee on each workday or workweek.

(h) Total number of days’ work required of an employee in a work year.

(i) Discharge and disciplinary procedures.

(j) Recognition clause.

(k) The method used to classify employees in the bargaining unit.

(l) Deduction of dues for the recognized employee organization.

(m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.

(n) No-strike provisions consistent with the provisions of this chapter.

(o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.

(p) General savings clauses.

(q) Duration of collective bargaining agreements.

(r) Safety of the employee.

(s) Teacher preparation time.

(t) Materials and supplies for classrooms.

(u) The policies for the transfer and reassignment of teachers.

(v) Procedures for reduction in workforce consistent with the provisions of this chapter.

(w) Procedures and requirements for the reopening of collective bargaining agreements that exceed 1 year in duration for additional, further, new or supplementary negotiations during periods of fiscal emergency. The requirements for the reopening of a collective bargaining agreement must include, without limitation, measures of revenue shortfalls or reductions relative to economic indicators such as the Consumer Price Index, as agreed upon by both parties.

3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

(a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including without limitation workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the

most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. This section does not preclude, but this chapter does not require, the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

7. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 4. NRS 288.153 is hereby amended to read as follows:

288.153 **1.** Any new, extended or modified collective bargaining agreement or similar agreement between a local government employer and an employee organization must be approved by the governing body of the local government employer at a public hearing. ~~The~~

2. Not less than 21 days before the date of the hearing, the governing body shall cause a copy of the proposed agreement to be posted and made available for downloading on the Internet website of the local government or, if the local government does not have such a website, deposited with the county clerk of the county in which the local government is located. If it is so deposited, the proposed agreement is a public record and must be open for public inspection pursuant to NRS 239.010.

3. At the hearing, the chief executive officer of the local government shall report to **the governing body of** the local government the fiscal impact of the **proposed** agreement ~~and whether the proposed agreement is financially sustainable.~~

Sec. 5. NRS 288.200 is hereby amended to read as follows:

288.200 Except in cases to which NRS 288.205 and 288.215, or NRS 288.217 apply:

1. If:

(a) The parties have failed to reach an agreement after at least six meetings of negotiations; and

(b) The parties have participated in mediation and by April 1, have not reached agreement,

↪ either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact finder for the findings and recommendations of the fact finder. The findings and recommendations of the fact finder are not binding on the parties except as provided in subsections 5, 6 and 11. The mediator of a dispute may also be chosen by the parties to serve as the fact finder.

2. If the parties are unable to agree on an impartial fact finder or a panel of neutral arbitrators within 5 days, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential fact finders. If the parties are unable to agree upon which arbitration service should be used, the Federal Mediation and Conciliation Service must be used. Within 5 days after receiving a list from the applicable arbitration service, the parties shall select their fact finder from

this list by alternately striking one name until the name of only one fact finder remains, who will be the fact finder to hear the dispute in question. The employee organization shall strike the first name.

3. The local government employer and employee organization each shall pay one-half of the cost of fact-finding. Each party shall pay its own costs of preparation and presentation of its case in fact-finding.

4. A schedule of dates and times for the hearing must be established within 10 days after the selection of the fact finder pursuant to subsection 2, and the fact finder shall report the findings and recommendations of the fact finder to the parties to the dispute within 30 days after the conclusion of the fact-finding hearing.

5. The parties to the dispute may agree, before the submission of the dispute to fact-finding, to make the findings and recommendations on all or any specified issues final and binding on the parties.

6. If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 11 are to be final and binding. The determination must be made upon the concurrence of at least two members of the panel and not later than the date which is 30 days after the date on which the matter is submitted to the panel, unless that date is extended by the Commissioner of the Board. Each panel shall, when making its determination, consider whether the parties have bargained in good faith and whether it believes the parties can resolve any remaining issues. Any panel may also consider the actions taken by the parties in response to any previous fact-finding between these parties, the best interests of the State and all its citizens, the potential fiscal effect both within and outside the political subdivision, and any danger to the safety of the people of the State or a political subdivision.

7. Except as otherwise provided in subsection 10, any fact finder, whether the fact finder's recommendations are to be binding or not, shall base such recommendations or award on the following criteria:

(a) A preliminary determination must be made as to ~~the~~ :

(1) The financial ability of the local government employer based on all existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision ~~it~~ ; and

(2) The amount of compensation and monetary benefits that is financially sustainable for the local government employer.

↪ ~~It~~ Except as otherwise provided in this paragraph and NRS 354.6241, in making those determinations, the fact finder shall not consider any nonrecurring revenue or nonrecurring transfer of money or any money reserved by the local government employer to pay the current or future costs

of health benefits for retired employees or workers' compensation benefits. The fact finder may consider nonrecurring revenue or a nonrecurring transfer of money in determining the ability of the local government employer to make a nonrecurring payment of compensation or monetary benefits.

(b) ~~Once~~ If the fact finder ~~has determined~~ **determines** in accordance with paragraph (a) that there is a current financial ability to grant **compensation and** monetary benefits ~~and~~ **and** ~~subject to the provisions of paragraph (c),~~ **the amount of compensation and monetary benefits that is financially sustainable**, the fact finder shall consider, to the extent appropriate, **the** compensation of other government employees, both in and out of the State and use normal criteria for interest disputes regarding the terms and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute and the fact finder shall consider whether the Board found that either party had bargained in bad faith.

~~[(c) A consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multiyear contract, the fact finder must consider the ability to pay over the life of the contract being negotiated or arbitrated.]~~

➔ The fact finder's report must contain the facts upon which the fact finder **has** based ~~the fact finder's~~ **his or her** determination of financial ability to grant **compensation and** monetary benefits and **the amount of compensation and monetary benefits that is financially sustainable, and** the fact finder's recommendations or award.

8. Within 45 days after the receipt of the report from the fact finder, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues of the parties submitted ~~pursuant to subsection 3;~~ **to the fact finder;**

(b) The report of findings and recommendations of the fact finder; and

(c) The overall fiscal impact of the findings and recommendations ~~and~~ **and whether they are financially sustainable**, which must not include a discussion of the details of the report.

➔ The fact finder must not be asked to discuss the decision during the meeting.

9. The chief executive officer of the local government shall report to the local government the fiscal impact of the findings and recommendations ~~and~~ **and whether they are financially sustainable**. The report must include, without limitation, an analysis of the impact of the findings and recommendations on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

10. Any sum of money which is maintained in a fund whose balance is required by law to be:

(a) Used only for a specific purpose other than the payment of compensation to the bargaining unit affected; or

(b) Carried forward to the succeeding fiscal year in any designated amount, to the extent of that amount,

➤ must not be counted in determining the financial ability of a local government employer **or the amount of compensation and monetary benefits that is financially sustainable** and must not be used to pay any **compensation or** monetary benefits recommended or awarded by the fact finder.

11. The issues which may be included in a panel's order pursuant to subsection 6 are:

(a) Those enumerated in subsection 2 of NRS 288.150 as the subjects of mandatory bargaining, unless precluded for that year by an existing collective bargaining agreement between the parties; and

(b) Those which an existing collective bargaining agreement between the parties makes subject to negotiation in that year.

➤ This subsection does not preclude the voluntary submission of other issues by the parties pursuant to subsection 5.

Sec. 6. NRS 288.215 is hereby amended to read as follows:

288.215 1. As used in this section:

(a) "Firefighters" means those persons who are salaried **or hourly** employees of a fire prevention or suppression unit organized by a political subdivision of the State and whose principal duties are controlling and extinguishing fires.

(b) "Police officers" means those persons who are salaried **or hourly** employees of a police department or other law enforcement agency organized by a political subdivision of the State and whose principal duties are to enforce the law.

2. The provisions of this section apply only to firefighters and police officers and their local government employers.

3. If the parties have not agreed to make the findings and recommendations of the fact finder final and binding upon all issues, and do not otherwise resolve their dispute, they shall, within 10 days after the fact finder's report is submitted, submit the issues remaining in dispute to an arbitrator who must be selected in the manner provided in NRS 288.200 and have the same powers provided for fact finders in NRS 288.210.

4. The arbitrator shall, within 10 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearings must be held in the county in which the local government employer is located and the arbitrator shall arrange for a full and complete record of the hearings.

5. At the hearing, or at any subsequent time to which the hearing may be adjourned, information may be presented by:

(a) The parties to the dispute; or

(b) Any interested person.

6. The parties to the dispute shall each pay one-half of the costs incurred by the arbitrator.

7. A determination ~~for the~~ **must be made as to:**

(a) ~~The~~ financial ability of ~~the~~ local government employer ~~must be~~ based on ~~the~~:

~~(a) All~~ **all** existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision ~~the~~; **and**

~~(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.~~

~~Once~~ **The amount of compensation and monetary benefits that is financially sustainable for the local government employer.**

~~the~~ **Except as otherwise provided in this paragraph and NRS 354.6241, in making those determinations, the arbitrator shall not consider any nonrecurring revenue or nonrecurring transfer of money or any money reserved by the local government employer to pay the current or future costs of health benefits for retired employees or workers' compensation benefits. The arbitrator may consider nonrecurring revenue or a nonrecurring transfer of money in determining the ability of the local government employer to make a nonrecurring payment of compensation or monetary benefits.**

8. ~~If the arbitrator has determined~~ **determines** in accordance with ~~this~~ subsection 7 that there is a current financial ability to grant **compensation and monetary benefits** ~~the~~ **and the amount of compensation and monetary benefits that is financially sustainable**, the arbitrator shall consider, to the extent appropriate, **the** compensation of other governmental employees, both in and out of this State.

~~the~~ 9. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearings for a period of 3 weeks. An agreement by the parties is final and binding, and upon notification to the arbitrator, the arbitration terminates.

~~the~~ 10. If the parties do not enter into negotiations or do not agree within 30 days, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

~~the~~ 11. The arbitrator shall, within 10 days after the final offers are submitted, accept one of the written statements, on the basis of the criteria provided in NRS 288.200 ~~the~~ **and this section**, and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract.

~~the~~ 12. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's reason for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

~~{12:}~~ **13.** Within 45 days after the receipt of the decision from the arbitrator pursuant to subsection ~~{10:}~~ **11**, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

- (a) The issues submitted pursuant to subsection 3;
 - (b) The statement of the arbitrator pursuant to subsection ~~{11:}~~ **12**; and
 - (c) The overall fiscal impact of the decision ~~{1:}~~ **and whether it is financially sustainable**, which must not include a discussion of the details of the decision.
- ➔ The arbitrator must not be asked to discuss the decision during the meeting.

~~{13:}~~ **14.** The chief executive officer of the local government shall report to the local government the fiscal impact of the decision ~~{1:}~~ **and whether it is financially sustainable**. The report must include, without limitation, an analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

Sec. 7. NRS 288.217 is hereby amended to read as follows:

288.217 1. The provisions of this section govern negotiations between school districts and employee organizations representing teachers and educational support personnel.

2. If the parties to a negotiation pursuant to this section have failed to reach an agreement after at least four sessions of negotiation, either party may declare the negotiations to be at an impasse and, after 5 days' written notice is given to the other party, submit the issues remaining in dispute to an arbitrator. The arbitrator must be selected in the manner provided in subsection 2 of NRS 288.200 and has the powers provided for fact finders in NRS 288.210.

3. The arbitrator shall, within 30 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearing must be held in the county in which the school district is located and the arbitrator shall arrange for a full and complete record of the hearing.

4. The parties to the dispute shall each pay one-half of the costs of the arbitration.

5. A determination ~~{of the}~~ **must be made as to:**

(a) **The** financial ability of ~~{a}~~ **the** school district ~~{must be}~~ based on ~~{:~~ **all** existing available revenues as established by the school district and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the school district to provide an education to the children residing within the district ~~{1:}~~ **; and**

(b) ~~{Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.~~

➔ ~~{Once}~~ **The amount of compensation and monetary benefits that is financially sustainable for the school district.**

↪ ~~{11-}~~ Except as otherwise provided in this paragraph and NRS 354.6241, in making those determinations, the arbitrator shall not consider any nonrecurring revenue or nonrecurring transfer of money or any other money reserved by the school district to pay the current or future costs of health benefits for retired employees or workers' compensation benefits. The arbitrator may consider nonrecurring revenue or a nonrecurring transfer of money in determining the ability of the local government employer to make a nonrecurring payment of compensation or monetary benefits.

6. If the arbitrator ~~has determined~~ **determines** in accordance with ~~{this}~~ subsection 5 that there is a current financial ability to grant **compensation and monetary benefits** ~~{,}~~ **and the amount of compensation and monetary benefits that is financially sustainable**, the arbitrator shall consider, to the extent appropriate, **the** compensation of other governmental employees, both in and out of this State.

~~{6-}~~ 7. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearing for a period of 3 weeks. If an agreement is reached, it must be submitted to the arbitrator, who shall certify it as final and binding.

~~{7-}~~ 8. If the parties do not enter into negotiations or do not agree within 30 days after the hearing held pursuant to subsection 3, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

~~{8-}~~ 9. The arbitrator shall, within 10 days after the final offers are submitted, render a decision on the basis of the criteria set forth in NRS 288.200 ~~{,}~~ **and this section**. The arbitrator shall accept one of the written statements and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract between the parties.

~~{9-}~~ 10. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's reason for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

~~{10-}~~ 11. Within 45 days after the receipt of the decision from the arbitrator, the board of trustees of the school district shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 2;

(b) The statement of the arbitrator pursuant to subsection ~~{9-}~~ 10; and

(c) The overall fiscal impact of the decision **and whether it is financially sustainable**, which must not include a discussion of the details of the decision.

↪ The arbitrator must not be asked to discuss the decision during the meeting.

~~{11-}~~ 12. The superintendent of the school district shall report to the board of trustees the fiscal impact of the decision ~~{,}~~ **and whether it is financially sustainable**. The report must include, without limitation, an analysis of the

impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

~~{12.}~~ **13.** As used in this section:

(a) “Educational support personnel” means all classified employees of a school district, other than teachers, who are represented by an employee organization.

(b) “Teacher” means an employee of a school district who is licensed to teach in this State and who is represented by an employee organization.

Sec. 8. NRS 354.6241 is hereby amended to read as follows:

354.6241 1. The statement required by paragraph (a) of subsection 5 of NRS 354.624 must indicate for each fund set forth in that paragraph:

(a) Whether the fund is being used in accordance with the provisions of this chapter.

(b) Whether the fund is being administered in accordance with generally accepted accounting procedures.

(c) Whether the reserve in the fund is limited to an amount that is reasonable and necessary to carry out the purposes of the fund.

(d) The sources of revenues available for the fund during the fiscal year, including transfers from any other funds.

(e) The statutory and regulatory requirements applicable to the fund.

(f) The balance and retained earnings of the fund.

2. Except as otherwise provided in NRS ~~288.200~~, ~~288.215~~, ~~288.217~~, 354.59891 and 354.613, to the extent that the reserve in any fund set forth in paragraph (a) of subsection 5 of NRS 354.624 exceeds the amount that is reasonable and necessary to carry out the purposes for which the fund was created, the reserve may be expended by the local government pursuant to the provisions of chapter 288 of NRS.

3. For the purposes of chapter 288 of NRS ~~1-4~~:

(a) A budgeted ending fund balance for the general fund of a local government of not more than 25 percent of the total budgeted expenditures from the general fund, less any capital outlay:

~~{(a)}~~ ***(1) Is not subject to negotiations with an employee organization; and***

~~{(b)}~~ ***(2) Must not be considered by a fact finder or arbitrator in determining the financial ability of the local government to pay compensation or monetary benefits or the amount of compensation and monetary benefits that is financially sustainable.***

(b) If and to the extent that the governing body of a local government employer makes a finding that the continued reservation of money previously reserved by the local government employer to pay the current or future costs of health benefits for retired employees or workers' compensation benefits is no longer necessary, the money may be considered by a fact finder or arbitrator in determining the financial ability of the local government employer to pay compensation or monetary benefits or the

amount of compensation and monetary benefits that is financially sustainable.

4. As used in this section:

(a) “Employee organization” has the meaning ascribed to it in NRS 288.040.

(b) “Financially sustainable” has the meaning ascribed to it in section 1 of this act.

Sec. 8.5. 1. There is hereby appropriated from the State General Fund to the Local Government Employee-Management Relations Board the sum of \$300,000 for the purpose of employing a Deputy Commissioner pursuant to NRS 288.090, as amended by section 2.5 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2017, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 15, 2017, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 15, 2017.

Sec. 9. 1. This section and sections 1, 2 and 3 to 8, inclusive, of this act becomes effective upon passage and approval.

2. Sections 2.3, 2.5 and 8.5 of this act become effective on July 1, 2015.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 289.

Bill read second time.

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

Amendment No. 396.

AN ACT relating to mental health services; directing the Legislative Commission to appoint a committee to conduct an interim study concerning issues related to the provision of mental health services; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Section 1 of this bill directs the Legislative Commission to appoint a committee to conduct an interim study concerning the viability of transitioning the provision of mental and other behavioral health services to a regionalized structure, including: (1) how regions may be formed and governed; (2) how any transition may occur; (3) the sources of revenue for the regions and how such services may be paid for; and (4) methods to address communication among the regions and accountability standards within the regions. **Section 2** of this bill provides for the organization and composition of the interim

committee ~~to~~ **and requires the Chair of the interim committee to appoint certain subcommittees.** Section 3 of this bill directs the Director of the Legislative Counsel Bureau to provide administrative and technical support to the interim committee.

WHEREAS, Executive Order 2013-26 established the Behavioral Health and Wellness Council and directed the Council to develop a strategic plan to provide a cohesive and comprehensive system for the delivery of services to those affected by behavioral health conditions; and

WHEREAS, On May 28, 2014, after nearly 5 months of deliberation, the Behavioral Health and Wellness Council issued its first report to the Governor which contained 16 recommendations focused primarily on relieving the overcrowding crises in emergency rooms in this State created by the high number of emergency room admissions for people in real or apparent psychiatric or emotional crises or acutely intoxicated; and

WHEREAS, On February 24, 2015, the Behavioral Health and Wellness Council issued its second report to the Governor reporting on the substantive progress being made in implementing the recommendations from the first report and indicating that in 2015 the Council will focus its efforts on addressing behavioral health care within the Department of Corrections; and

WHEREAS, The members of the Senate and Assembly hereby commend and express their gratitude to the members of the Behavioral Health and Wellness Council for the good work they have performed on behalf of the citizens of this State; and

WHEREAS, The members of the Senate and Assembly desire to aid the work and further the goals of the Behavioral Health and Wellness Council by investigating the viability of transitioning the provision of mental and other behavioral health services to a regionalized structure in this State; now, therefore,

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

Section 1. The Legislative Commission shall appoint a committee to conduct an interim study concerning:

1. Whether responsibility for the provision of mental and other behavioral health services should be moved to a regionalized structure in this State, including, without limitation:

(a) The manner in which any regions may be formed and structured; and

(b) The governance model for the regions, including, without limitation, whether the regions will be administered by a governmental entity, a nonprofit entity or a hybrid of both;

2. The manner in which the transition to such a regionalized structure may occur, including, without limitation, the time period during which the transition may occur;

3. The manner in which services may be paid for under such a regionalized structure and the sources of revenue available to each region, including, without limitation, gifts and grants; and

4. Methods to address:

(a) Communication among the regions; and

(b) Accountability standards for each region.

Sec. 2. 1. The committee appointed by the Legislative Commission to conduct an interim study pursuant to section 1 of this act must be composed of 15 members as follows:

(a) Four Legislators as follows:

(1) One member of the Senate appointed by the Majority Leader of the Senate;

(2) One member of the Senate appointed by the Minority Leader of the Senate;

(3) One member of the Assembly appointed by the Speaker of the Assembly; and

(4) One member of the Assembly appointed by the Minority Leader of the Assembly;

(b) One member who is an employee of the Division of Public and Behavioral Health of the Department of Health and Human Services, appointed by the Director of the Department;

(c) The Director of the Department of Veterans Services, or his or her designee;

(d) One member who is employed by a federally qualified health center, as that term is defined in 42 U.S.C. § 1396d(l)(2)(B), that provides mental or other behavioral health services, appointed by the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services;

(e) One member who is employed by a nonprofit entity in this State that provides mental or other behavioral health services, appointed by the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services;

(f) One member who is employed by the Las Vegas Metropolitan Police Department, appointed by the Sheriff of Clark County;

(g) One member who is employed by a psychiatric hospital in this State, appointed by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate;

(h) One member who ~~is employed by a private university located in this State that specializes in the education of health care professionals,~~ **has experience in medical education,** appointed by the Speaker of the Assembly in consultation with the Minority Leader of the Assembly;

(i) One member who is the director of a social service agency, as that term is defined in NRS 430A.080, located in a county whose population is less than 100,000, appointed by the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services;

(j) The Director of the Clark County Social Service Department, or his or her designee;

(k) The Director of the Washoe County Department of Social Services, or his or her designee; and

(l) One member who is a consumer of mental or other behavioral health services in this State, appointed by the President of the Southern Nevada Chapter of the National Alliance on Mental Illness.

2. In appointing the members of the interim committee pursuant to subsection 1, the appointing authorities shall coordinate the appointments, to the extent practicable, so that the members of the interim committee represent the ethnic diversity of this State.

3. At the first meeting of the interim committee, the members of the interim committee shall elect a Chair, who must be one of the members appointed pursuant to paragraph (a) of subsection 1.

4. A vacancy on the interim committee must be filled in the same manner as the original appointment.

5. All members of the interim committee are voting members. A majority of the members of the interim committee constitutes a quorum for the transaction of business, and a majority of those present at any meeting is sufficient for any official action taken by the interim committee.

6. The Chair may appoint such subcommittees or technical advisory groups as the Chair determines necessary to assist the interim committee in carrying out the duties prescribed by section 1 of this act. The members of any subcommittee or technical advisory group appointed pursuant to this subsection are not required to be members of the interim committee. **The Chair shall appoint not less than three subcommittees to advise the interim committee as follows:**

(a) One subcommittee composed of providers of mental health services and representatives of the payor community, which must include, without limitation, representatives of a Medicaid managed care organization and a private insurance provider;

(b) One subcommittee focused specifically on the mental health of children; and

(c) One subcommittee composed of professionals in academia.

7. The interim committee, or a subcommittee or technical advisory group appointed pursuant to subsection 6, may seek input, advice and assistance from any person or entity with knowledge, interest or expertise relevant to the duties of the interim committee prescribed by section 1 of this act.

8. The members of the interim committee serve without compensation, except that each such member is entitled, while engaged in the business of the interim committee and within the limits of available money, to the per diem allowance and travel expenses provided for state officers and employees generally.

9. The interim committee shall submit a report of its findings, including, without limitation, any recommendations for legislation, to the Director of the

Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.

10. The interim committee may request the drafting of legislative measures as provided for in paragraph (c) of subsection 4 of NRS 218D.160.

Sec. 3. The Director of the Legislative Counsel Bureau shall provide administrative and technical assistance to the interim committee appointed pursuant to section 1 of this act.

Sec. 4. This act becomes effective upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of this act, and on July 1, 2015, for all other purposes.

Assemblyman Stewart moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 292.

Bill read second time.

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

Amendment No. 372.

AN ACT relating to public health; requiring a provider of health care who provides certain services to ~~for certain~~ patients located in this State through telehealth to have a valid license or certificate in this State; making persons who provide such services through telehealth to ~~for certain~~ patients subject to the laws and jurisdiction of this State; requiring certain insurers to provide coverage to insureds for services provided through telehealth to the same extent as though provided in person; authorizing a hospital to provide staff privileges to certain providers of health care to provide services through telehealth; requiring the Commissioner of Insurance to consider health care services that may be provided by providers through telehealth when evaluating certain network plans; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain providers of health care to provide certain health care services electronically, telephonically or by fiber optics. (NRS 630.020, 630.261, 630.275, 632.237, 633.165, 639.0727, 639.235)

Section 3 of this bill defines "telehealth" as the delivery of health care services from a provider of health care to a patient at a different location through the use of information and audio-visual communication technology, ~~that transfers information electronically, telephonically or by fiber optics,~~ not including standard telephone, facsimile or electronic mail. **Section 3** also prohibits a provider of health care , except for an employee or contractor of certain nonprofit organizations that administer health programs for American Indians, from ~~providing services through~~ using telehealth to direct or manage care, render a diagnosis or write a treatment order or prescription for a patient located in this State without a valid license or

certificate to practice his or her profession in this State. Finally, **section 3** provides that any person who provides ~~health care~~ such services through telehealth to a patient located in this State ~~:(1) is subject to the laws ,including regulations,~~ and jurisdiction of this State ~~.(1) ; and (2) is required to comply with all federal and state laws that would apply if the person were providing services from a location in this State.~~ Sections 6-18 of this bill clarify that certain provisions regulating the provision of health care services electronically, telephonically or by fiber optics apply to health care services provided through telehealth. **Section 44** of this bill repeals certain requirements of existing law concerning the use of telemedicine by an osteopathic physician because it is addressed by **sections 3, 10 and 11**.

Sections 27-32, 36-39 and 41-43 of this bill require any policy of health insurance, a policy of industrial insurance that provides benefits for injuries and the State Plan for Medicaid to include coverage for health care services provided to a covered person through telehealth to the same extent ~~(and in the same amount)~~ as though provided in person.

Existing federal regulations allow the governing body of a hospital at which patients receive services through telemedicine to have its medical staff rely upon the credentialing and privileging decisions made by the staff of a facility from which services are provided when deciding whether to extend staff privileges to a provider of health care who provides services through telemedicine from that facility. (42 C.F.R. §§ 482.12, 482.22, 485.616) **Section 22** of this bill authorizes a hospital to grant staff privileges to a provider of health care who is at another location so that the provider may provide services through telehealth to patients at the hospital as prescribed in federal regulations.

Existing law requires the Commissioner of Insurance to make certain determinations concerning the adequacy of a network plan that an insurer proposes to offer and approve the network plan before the network plan is issued. Existing law also requires the Commissioner to make an annual determination concerning the availability and accessibility of the health care services of any existing network plan. (NRS 687B.490) **Section 28** of this bill requires the Commissioner to consider health care services that may be provided by providers through telehealth pursuant to the network plan when making such a determination.

WHEREAS, Shortages of primary providers of health care and providers of health care who specialize in certain areas and the distances some people must travel to reach a provider of health care affects the ability of many people to obtain the health care services they need; and

WHEREAS, Parts of this State have experienced difficulty attracting and retaining providers of health care and supporting health care facilities that provide the necessary variety of health care services to persons; and

WHEREAS, Providers of health care located in underserved areas may not have access to mentors and colleagues to support them personally and

professionally or information resources that may assist them in their practices; and

WHEREAS, Telehealth is a mode of delivering health care and public health services using information and **audio-visual** communication technology to enable diagnosis, consultation, treatment, care management and provision of information to patients from providers of health care at other locations; and

WHEREAS, Telehealth may help to address the problem of an inadequate distribution of providers of health care and develop health care systems in underserved areas of the State; and

WHEREAS, Telehealth can reduce the costs of providing health care and increase the quality of and access to health care in underserved areas of the State; and

WHEREAS, Telehealth provides economic benefits to underserved areas by reducing the need for persons to leave those areas to obtain health care services and preserving and creating jobs relating to the provision of health care in those areas; and

WHEREAS, Patients receive many benefits from telehealth, including increased access to providers of health care, the ability to receive health care services in a faster and more convenient manner, increased continuity of care, reduction of lost work time and travel costs and the ability to remain near family and friends while receiving health care services; and

WHEREAS, Without the assurance that providers of health care will be reimbursed by insurers for services provided through telehealth and the resolution of other legal barriers to the provision of services through telehealth, the full benefits of telehealth cannot be realized; now, therefore,

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

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

1. *Health care services provided through telehealth are often as effective as health care services provided in person;*

2. *The provision of services through telehealth does not detract from, and often improves, the quality of health care provided to patients and the relationship between patients and providers of health care; and*

3. *It is the public policy of this State to:*

(a) *Encourage and facilitate the provision of services through telehealth to improve public health and the quality of health care provided to patients and to lower the cost of health care in this State; and*

(b) *Ensure that services provided through telehealth are covered by policies of insurance to the same extent ~~and in the same amount~~ as though provided in person or by other means.*

Sec. 3. 1. ~~Before~~ Except as otherwise provided in this subsection, before a provider of health care who is located at a distant site may provide

~~services through telehealth, to~~ use telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient, located in this State, the provider must hold a valid license or certificate to practice his or her profession in this State, including, without limitation, a special purpose license issued pursuant to NRS 630.261. The requirements of this subsection do not apply to a provider of health care who is providing services within the scope of his or her employment by or pursuant to a contract entered into with an urban Indian organization, as defined in 25 U.S.C. § 1603.

2. The provisions of this section must not be interpreted or construed to:

(a) Modify, expand or alter the scope of practice of a provider of health care; or

(b) Authorize a provider of health care to provide services in a setting that is not authorized by law or in a manner that violates the standard of care required of the provider of health care.

3. A provider of health care who ~~provides services through telehealth to a patient located in this State at the time the services are provided~~ is located at a distant site and uses telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient:

(a) Is subject to the laws and jurisdiction of the State of Nevada, including, without limitation, any regulations adopted by an occupational licensing board in this State, regardless of the location from which the provider of health care provides services through telehealth.

(b) Shall comply with all federal and state laws that would apply if the provider were located at a distant site in this State.

4. As used in this section ~~for "telehealth":~~

(a) "Distant site" means the location of the site where a telehealth provider of health care is providing telehealth services to a patient located at an originating site.

(b) "Originating site" means the location of the site where a patient is receiving telehealth services from a provider of health care located at a distant site.

(c) "Telehealth" means the delivery of services from a provider of health care to a patient at a different location through the use of information and audio-visual communication technology, ~~that transfers information electronically, telephonically or by fiber optics,~~ not including standard telephone, facsimile or electronic mail.

Sec. 4. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

"Telehealth" has the meaning ascribed to it in section 3 of this act.

Sec. 5. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.026, inclusive, **and section 4 of this act** have the meanings ascribed to them in those sections.

Sec. 6. NRS 630.020 is hereby amended to read as follows:

630.020 “Practice of medicine” means:

1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality, including, but not limited to, the performance of an autopsy.

2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics , **including, without limitation, through telehealth**, from within or outside this State or the United States.

4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

Sec. 7. NRS 630.261 is hereby amended to read as follows:

630.261 1. Except as otherwise provided in NRS 630.161, the Board may issue:

(a) A locum tenens license, to be effective not more than 3 months after issuance, to any physician who is licensed and in good standing in another state, who meets the requirements for licensure in this State and who is of good moral character and reputation. The purpose of this license is to enable an eligible physician to serve as a substitute for another physician who is licensed to practice medicine in this State and who is absent from his or her practice for reasons deemed sufficient by the Board. A license issued pursuant to the provisions of this paragraph is not renewable.

(b) A special license to a licensed physician of another state to come into this State to care for or assist in the treatment of his or her own patient in association with a physician licensed in this State. A special license issued pursuant to the provisions of this paragraph is limited to the care of a specific patient. The physician licensed in this State has the primary responsibility for the care of that patient.

(c) A restricted license for a specified period if the Board determines the applicant needs supervision or restriction.

(d) A temporary license for a specified period if the physician is licensed and in good standing in another state and meets the requirements for licensure in this State, and if the Board determines that it is necessary in order to provide medical services for a community without adequate medical care. A temporary license issued pursuant to the provisions of this paragraph is not renewable.

(e) A special purpose license to a physician who is licensed in another state to perform any of the acts described in subsections 1 and 2 of NRS 630.020 by using equipment that transfers information concerning the medical condition

of a patient in this State electronically, telephonically or by fiber optics , **including, without limitation, through telehealth**, from within or outside this State or the United States. A physician who holds a special purpose license issued pursuant to this paragraph:

(1) Except as otherwise provided by specific statute or regulation, shall comply with the provisions of this chapter and the regulations of the Board; and

(2) To the extent not inconsistent with the Nevada Constitution or the United States Constitution, is subject to the jurisdiction of the courts of this State.

2. For the purpose of paragraph (e) of subsection 1, the physician must:

(a) Hold a full and unrestricted license to practice medicine in another state;

(b) Not have had any disciplinary or other action taken against him or her by any state or other jurisdiction; and

(c) Be certified by a specialty board of the American Board of Medical Specialties or its successor.

3. Except as otherwise provided in this section, the Board may renew or modify any license issued pursuant to subsection 1.

Sec. 8. NRS 630.275 is hereby amended to read as follows:

630.275 The Board shall adopt regulations regarding the licensure of a physician assistant, including, but not limited to:

1. The educational and other qualifications of applicants.

2. The required academic program for applicants.

3. The procedures for applications for and the issuance of licenses.

4. The tests or examinations of applicants by the Board.

5. The medical services which a physician assistant may perform, except that a physician assistant may not perform those specific functions and duties delegated or restricted by law to persons licensed as dentists, chiropractors, podiatric physicians and optometrists under chapters 631, 634, 635 and 636, respectively, of NRS, or as hearing aid specialists.

6. The duration, renewal and termination of licenses.

7. The grounds and procedures respecting disciplinary actions against physician assistants.

8. The supervision of medical services of a physician assistant by a supervising physician, including, without limitation, supervision that is performed electronically, telephonically or by fiber optics from within or outside this State or the United States.

9. A physician assistant's use of equipment that transfers information concerning the medical condition of a patient in this State electronically, telephonically or by fiber optics , **including, without limitation, through telehealth**, from within or outside this State or the United States.

Sec. 9. NRS 632.237 is hereby amended to read as follows:

632.237 1. The Board may issue a license to practice as an advanced practice registered nurse to a registered nurse who:

(a) Has completed an educational program designed to prepare a registered nurse to:

- (1) Perform designated acts of medical diagnosis;
- (2) Prescribe therapeutic or corrective measures; and
- (3) Prescribe controlled substances, poisons, dangerous drugs and devices;

(b) Except as otherwise provided in subsection 5, submits proof that he or she is certified as an advanced practice registered nurse by the American Board of Nursing Specialties, the National Commission for Certifying Agencies of the Institute for Credentialing Excellence, or their successor organizations, or any other nationally recognized certification agency approved by the Board; and

(c) Meets any other requirements established by the Board for such licensure.

2. An advanced practice registered nurse may:

- (a) Engage in selected medical diagnosis and treatment; and
- (b) If authorized pursuant to NRS 639.2351 and subject to the limitations set forth in subsection 3, prescribe controlled substances, poisons, dangerous drugs and devices.

➔ An advanced practice registered nurse shall not engage in any diagnosis, treatment or other conduct which the advanced practice registered nurse is not qualified to perform.

3. An advanced practice registered nurse who is authorized to prescribe controlled substances, poisons, dangerous drugs and devices pursuant to NRS 639.2351 shall not prescribe a controlled substance listed in schedule II unless:

- (a) The advanced practice registered nurse has at least 2 years or 2,000 hours of clinical experience; or
- (b) The controlled substance is prescribed pursuant to a protocol approved by a collaborating physician.

4. An advanced practice registered nurse may perform the acts described in subsection 2 by using equipment that transfers information concerning the medical condition of a patient in this State electronically, telephonically or by fiber optics, **including, without limitation, through telehealth, as defined in section 3 of this act**, from within or outside this State or the United States.

5. The Board shall adopt regulations:

- (a) Specifying any additional training, education and experience necessary for licensure as an advanced practice registered nurse.
- (b) Delineating the authorized scope of practice of an advanced practice registered nurse.
- (c) Establishing the procedure for application for licensure as an advanced practice registered nurse.

6. The provisions of paragraph (b) of subsection 1 do not apply to an advanced practice registered nurse who obtains a license before July 1, 2014.

Sec. 10. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.
2. Conviction of:
 - (a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;
 - (b) A felony relating to the practice of osteopathic medicine or practice as a physician assistant;
 - (c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;
 - (d) Murder, voluntary manslaughter or mayhem;
 - (e) Any felony involving the use of a firearm or other deadly weapon;
 - (f) Assault with intent to kill or to commit sexual assault or mayhem;
 - (g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
 - (h) Abuse or neglect of a child or contributory delinquency; or
 - (i) Any offense involving moral turpitude.
3. The suspension of a license to practice osteopathic medicine or to practice as a physician assistant by any other jurisdiction.
4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a licensee.
5. Professional incompetence.
6. Failure to comply with the requirements of NRS 633.527.
7. Failure to comply with the requirements of subsection 3 of NRS 633.471.
8. Failure to comply with the provisions of NRS 633.694.
9. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:
 - (a) The license of the facility is suspended or revoked; or
 - (b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➡ This subsection applies to an owner or other principal responsible for the operation of the facility.
10. Failure to comply with the provisions of subsection 2 of NRS 633.322.
11. Signing a blank prescription form.
12. Knowingly procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:
 - (a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;
 - (b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

13. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

14. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

15. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

16. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

17. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

18. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

19. Failure to comply with the provisions of ~~NRS 633.165~~ **section 3 of this act.**

20. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

Sec. 11. NRS 633.711 is hereby amended to read as follows:

633.711 1. The Board, through an officer of the Board or the Attorney General, may maintain in any court of competent jurisdiction a suit for an injunction against any person:

(a) Practicing osteopathic medicine or practicing as a physician assistant without a valid license to practice osteopathic medicine or to practice as a physician assistant; or

(b) ~~Engaging in telemedicine~~ **Providing services through telehealth, as defined in section 3 of this act,** without a valid license . ~~pursuant to NRS 633.165.~~

2. An injunction issued pursuant to subsection 1:

(a) May be issued without proof of actual damage sustained by any person, this provision being a preventive as well as a punitive measure.

(b) Must not relieve such person from criminal prosecution for practicing without such a license.

Sec. 12. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

“Telehealth” has the meaning ascribed to it in section 3 of this act.

Sec. 13. NRS 639.001 is hereby amended to read as follows:

639.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 639.0015 to 639.016, inclusive, **and section 12 of this act** have the meanings ascribed to them in those sections.

Sec. 14. NRS 639.0151 is hereby amended to read as follows:

639.0151 “Remote site” means:

1. A pharmacy staffed by a pharmaceutical technician and equipped to facilitate communicative access to a pharmacy and its registered pharmacists; or

2. An office of a dispensing practitioner that is staffed by a dispensing technician and equipped to facilitate communicative access to the dispensing practitioner,

↪ electronically, telephonically or by fiber optics , **including, without limitation, through telehealth**, during regular business hours from within or outside this State or the United States.

Sec. 15. NRS 639.0153 is hereby amended to read as follows:

639.0153 “Satellite consultation site” means a site that only dispenses filled prescriptions which are delivered to that site after the prescriptions are prepared:

1. At a pharmacy where a registered pharmacist provides consultation to patients; or

2. At an office of a dispensing practitioner where the dispensing practitioner provides consultation to patients,

↪ electronically, telephonically or by fiber optics , **including, without limitation, through telehealth**, during regular business hours from within or outside this State or the United States.

Sec. 16. NRS 639.0154 is hereby amended to read as follows:

639.0154 “Telepharmacy” means:

1. A pharmacy; or

2. An office of a dispensing practitioner,

↪ that is accessible by a remote site or a satellite consultation site electronically, telephonically or by fiber optics , **including, without limitation, through telehealth**, from within or outside this State or the United States.

Sec. 17. NRS 639.0727 is hereby amended to read as follows:

639.0727 The Board shall adopt regulations:

1. As are necessary for the safe and efficient operation of remote sites, satellite consultation sites and telepharmacies;

2. To define the terms “dispensing practitioner” and “dispensing technician,” to provide for the registration and discipline of dispensing practitioners and dispensing technicians, and to set forth the qualifications, powers and duties of dispensing practitioners and dispensing technicians;

3. To authorize registered pharmacists to engage in the practice of pharmacy electronically, telephonically or by fiber optics , **including, without limitation, through telehealth**, from within **or outside** this State; and

4. To authorize prescriptions to be filled and dispensed to patients as prescribed by practitioners electronically, telephonically or by fiber optics ,

including, without limitation, through telehealth, from within or outside this State or the United States.

Sec. 18. NRS 639.235 is hereby amended to read as follows:

639.235 1. No person other than a practitioner holding a license to practice his or her profession in this State may prescribe or write a prescription, except that a prescription written by a person who is not licensed to practice in this State, but is authorized by the laws of another state to prescribe, shall be deemed to be a legal prescription unless the person prescribed or wrote the prescription in violation of the provisions of NRS 453.3611 to 453.3648, inclusive.

2. If a prescription that is prescribed by a person who is not licensed to practice in this State, but is authorized by the laws of another state to prescribe, calls for a controlled substance listed in:

(a) Schedule II, the registered pharmacist who is to fill the prescription shall establish and document that the prescription is authentic and that a bona fide relationship between the patient and the person prescribing the controlled substance did exist when the prescription was written.

(b) Schedule III or IV, the registered pharmacist who is to fill the prescription shall establish that the prescription is authentic and that a bona fide relationship between the patient and the person prescribing the controlled substance did exist when the prescription was written. This paragraph does not require the registered pharmacist to inquire into such a relationship upon the receipt of a similar prescription subsequently issued for that patient.

3. A pharmacist who fills a prescription described in subsection 2 shall record on the prescription or in the prescription record in the pharmacy's computer:

(a) The name of the person with whom the pharmacist spoke concerning the prescription;

(b) The date and time of the conversation; and

(c) The date and time the patient was examined by the person prescribing the controlled substance for which the prescription was issued.

4. For the purposes of subsection 2, a bona fide relationship between the patient and the person prescribing the controlled substance shall be deemed to exist if the patient was examined in person, electronically, telephonically or by fiber optics , ***including, without limitation, through telehealth***, within or outside this State or the United States by the person prescribing the controlled substances within the 6 months immediately preceding the date the prescription was issued.

Sec. 19. NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept

the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS 687B.408, 689B.030 to 689B.050, inclusive, and 689B.287 **and section 31 of this act** apply to coverage provided pursuant to this paragraph.

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and

employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, “legal services organization” means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

Sec. 20. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.1645, 695G.167, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, **and section 43 of this act** in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 21. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall include in the State Plan for Medicaid:

(a) A requirement that the State, and, to the extent applicable, any of its political subdivisions, shall pay for the nonfederal share of expenses for services provided to a person through telehealth to the same extent ~~and in the same amount~~ as though provided in person or by other means; and

(b) A provision prohibiting the State from:

(1) Requiring a person to obtain prior authorization ~~for~~ that would not be required if a service were provided in person or through other means, establish a relationship with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to paying for services as described in paragraph (a) . ~~for~~ The State Plan for Medicaid may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or through other means.

(2) *Requiring a provider of health care to demonstrate that it is necessary to provide services to a person through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to paying for services as described in paragraph (a)*

~~.(4)~~

(3) *Refusing to pay for services as described in paragraph (a) because of the ~~location~~ distant site from which a provider of health care provides services through telehealth or the originating site at which a person who is covered by the State Plan for Medicaid receives services through telehealth*

~~.(4)~~

(4) *Requiring services to be provided through telehealth as a condition to paying for such services.*

2. The provisions of this section do not:

(a) Require the Director to include in the State Plan for Medicaid coverage of any service that the Director is not otherwise required by law to include; or

(b) Require the State or any political subdivision thereof to:

(1) Ensure that covered services are available to a recipient of Medicaid through telehealth at a particular originating site; or

(2) Provide coverage for a service that is not included in the State Plan for Medicaid or provided by a provider of health care that does not participate in Medicaid.

3. As used in this section:

(a) "Distant site" has the meaning ascribed to it in section 3 of this act.

(b) "Originating site" has the meaning ascribed to it in section 3 of this act.

(c) "Provider of health care" has the meaning ascribed to it in NRS 439.820.

~~.(4)~~ (d) "Telehealth" has the meaning ascribed to it in section 3 of this act.

Sec. 22. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

A hospital may grant staff privileges to a provider of health care who is at another location for the purpose of providing services through telehealth, as defined in section 3 of this act, to patients at the hospital in the manner prescribed in 42 C.F.R. §§ 482.12, 482.22 and 485.616.

Sec. 23. NRS 449.0302 is hereby amended to read as follows:

449.0302 1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.030 to 449.2428, inclusive, **and section 22 of this act** and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his or her home without being considered a residential facility for groups

pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.030 to 449.2428, inclusive ~~[]~~, **and section 22 of this act.**

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

↳ which provide care to persons with Alzheimer's disease.

3. The Board shall adopt separate regulations for:

(a) The licensure of rural hospitals which take into consideration the unique problems of operating such a facility in a rural area.

(b) The licensure of facilities for refractive surgery which take into consideration the unique factors of operating such a facility.

(c) The licensure of mobile units which take into consideration the unique factors of operating a facility that is not in a fixed location.

4. The Board shall require that the practices and policies of each medical facility or facility for the dependent provide adequately for the protection of the health, safety and physical, moral and mental well-being of each person accommodated in the facility.

5. In addition to the training requirements prescribed pursuant to NRS 449.093, the Board shall establish minimum qualifications for administrators and employees of residential facilities for groups. In establishing the qualifications, the Board shall consider the related standards set by nationally recognized organizations which accredit such facilities.

6. The Board shall adopt separate regulations regarding the assistance which may be given pursuant to NRS 453.375 and 454.213 to an ultimate user of controlled substances or dangerous drugs by employees of residential facilities for groups. The regulations must require at least the following conditions before such assistance may be given:

(a) The ultimate user's physical and mental condition is stable and is following a predictable course.

(b) The amount of the medication prescribed is at a maintenance level and does not require a daily assessment.

(c) A written plan of care by a physician or registered nurse has been established that:

(1) Addresses possession and assistance in the administration of the medication; and

(2) Includes a plan, which has been prepared under the supervision of a registered nurse or licensed pharmacist, for emergency intervention if an adverse condition results.

(d) The prescribed medication is not administered by injection or intravenously.

(e) The employee has successfully completed training and examination approved by the Division regarding the authorized manner of assistance.

7. The Board shall adopt separate regulations governing the licensing and operation of residential facilities for groups which provide assisted living services. The Board shall not allow the licensing of a facility as a residential facility for groups which provides assisted living services and a residential facility for groups shall not claim that it provides "assisted living services" unless:

(a) Before authorizing a person to move into the facility, the facility makes a full written disclosure to the person regarding what services of personalized care will be available to the person and the amount that will be charged for those services throughout the resident's stay at the facility.

(b) The residents of the facility reside in their own living units which:

(1) Except as otherwise provided in subsection 8, contain toilet facilities;

(2) Contain a sleeping area or bedroom; and

(3) Are shared with another occupant only upon consent of both occupants.

(c) The facility provides personalized care to the residents of the facility and the general approach to operating the facility incorporates these core principles:

(1) The facility is designed to create a residential environment that actively supports and promotes each resident's quality of life and right to privacy;

(2) The facility is committed to offering high-quality supportive services that are developed by the facility in collaboration with the resident to meet the resident's individual needs;

(3) The facility provides a variety of creative and innovative services that emphasize the particular needs of each individual resident and the resident's personal choice of lifestyle;

(4) The operation of the facility and its interaction with its residents supports, to the maximum extent possible, each resident's need for autonomy and the right to make decisions regarding his or her own life;

(5) The operation of the facility is designed to foster a social climate that allows the resident to develop and maintain personal relationships with fellow residents and with persons in the general community;

(6) The facility is designed to minimize and is operated in a manner which minimizes the need for its residents to move out of the facility as their respective physical and mental conditions change over time; and

(7) The facility is operated in such a manner as to foster a culture that provides a high-quality environment for the residents, their families, the staff, any volunteers and the community at large.

8. The Division may grant an exception from the requirement of subparagraph (1) of paragraph (b) of subsection 7 to a facility which is licensed as a residential facility for groups on or before July 1, 2005, and which is authorized to have 10 or fewer beds and was originally constructed as a single-family dwelling if the Division finds that:

(a) Strict application of that requirement would result in economic hardship to the facility requesting the exception; and

(b) The exception, if granted, would not:

(1) Cause substantial detriment to the health or welfare of any resident of the facility;

(2) Result in more than two residents sharing a toilet facility; or

(3) Otherwise impair substantially the purpose of that requirement.

9. The Board shall, if it determines necessary, adopt regulations and requirements to ensure that each residential facility for groups and its staff are prepared to respond to an emergency, including, without limitation:

(a) The adoption of plans to respond to a natural disaster and other types of emergency situations, including, without limitation, an emergency involving fire;

(b) The adoption of plans to provide for the evacuation of a residential facility for groups in an emergency, including, without limitation, plans to ensure that nonambulatory patients may be evacuated;

(c) Educating the residents of residential facilities for groups concerning the plans adopted pursuant to paragraphs (a) and (b); and

(d) Posting the plans or a summary of the plans adopted pursuant to paragraphs (a) and (b) in a conspicuous place in each residential facility for groups.

10. The regulations governing the licensing and operation of facilities for transitional living for released offenders must provide for the licensure of at least three different types of facilities, including, without limitation:

(a) Facilities that only provide a housing and living environment;

(b) Facilities that provide or arrange for the provision of supportive services for residents of the facility to assist the residents with reintegration into the community, in addition to providing a housing and living environment; and

(c) Facilities that provide or arrange for the provision of alcohol and drug abuse programs, in addition to providing a housing and living environment and providing or arranging for the provision of other supportive services.

➡ The regulations must provide that if a facility was originally constructed as a single-family dwelling, the facility must not be authorized for more than eight beds.

11. As used in this section, “living unit” means an individual private accommodation designated for a resident within the facility.

Sec. 24. NRS 449.0306 is hereby amended to read as follows:

449.0306 1. Money received from licensing medical facilities and facilities for the dependent must be forwarded to the State Treasurer for deposit in the State General Fund.

2. The Division shall enforce the provisions of NRS 449.030 to 449.245, inclusive, **and section 22 of this act** and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.

Sec. 25. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.030 to 449.2428, inclusive, **and section 22 of this act** upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.030 to 449.245, inclusive, **and section 22 of this act**, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to NRS 449.001 to 449.430, inclusive, **and section 22 of this act**, and 449.435 to 449.965, inclusive, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

↪ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Division pursuant to subsection 2.

Sec. 26. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.030 to 449.2428, inclusive ~~and~~, **and section 22 of this act:**

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license.

Sec. 27. Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every policy of insurance issued pursuant to chapters 616A to 617, inclusive, of NRS must include coverage for services provided to an employee through telehealth to the same extent ~~(and in the same amount)~~ as though provided in person or by other means.

2. An insurer shall not:

(a) *Require an employee to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;*

(b) *Require a provider of health care to demonstrate that it is necessary to provide services to an employee through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;*

(c) *Refuse to provide the coverage described in subsection 1 because of the ~~location~~ distant site from which a provider of health care provides services through telehealth or the originating site at which an employee receives services through telehealth; or*

(d) *Require covered services to be provided through telehealth as a condition to providing coverage for such services.*

3. A policy of insurance issued pursuant to chapters 616A to 617, inclusive, of NRS must not require an employee to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. Such a policy of insurance may require

prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.

4. The provisions of this section do not require an insurer to:

(a) Ensure that covered services are available to an employee through telehealth at a particular originating site;

(b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or

(c) Enter into a contract with any provider of health care or cover any service if the insurer is not otherwise required by law to do so.

5. A policy of insurance subject to the provisions of chapters 616A to 617, inclusive, of NRS that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void.

~~5.1~~ 6. As used in this section:

(a) "Distant site" has the meaning ascribed to it in section 3 of this act.

(b) "Originating site" has the meaning ascribed to it in section 3 of this act.

(c) "Provider of health care" has the meaning ascribed to it in NRS 439.820.

~~(b)~~ (d) "Telehealth" has the meaning ascribed to it in section 3 of this act.

Sec. 28. NRS 687B.490 is hereby amended to read as follows:

687B.490 1. A carrier that offers coverage in the group or individual market must, before making any network plan available for sale in this State, demonstrate the capacity to deliver services adequately by applying to the Commissioner for the issuance of a network plan and submitting a description of the procedures and programs to be implemented to meet the requirements described in subsection 2.

2. The Commissioner shall determine, within 90 days after receipt of the application required pursuant to subsection 1, if the carrier, with respect to the network plan:

(a) Has demonstrated the willingness and ability to ensure that health care services will be provided in a manner to ensure both availability and accessibility of adequate personnel and facilities in a manner that enhances availability, accessibility and continuity of service;

(b) Has organizational arrangements established in accordance with regulations promulgated by the Commissioner; and

(c) Has a procedure established in accordance with regulations promulgated by the Commissioner to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services and such other matters as may be reasonably required by the Commissioner.

3. The Commissioner may certify that the carrier and the network plan meet the requirements of subsection 2, or may determine that the carrier and the network plan do not meet such requirements. Upon a determination that the carrier and the network plan do not meet the requirements of subsection 2, the Commissioner shall specify in what respects the carrier and the network plan are deficient.

4. A carrier approved to issue a network plan pursuant to this section must file annually with the Commissioner a summary of information compiled pursuant to subsection 2 in a manner determined by the Commissioner.

5. The Commissioner shall, not less than once each year, or more often if deemed necessary by the Commissioner for the protection of the interests of the people of this State, make a determination concerning the availability and accessibility of the health care services of any network plan approved pursuant to this section.

6. The expense of any determination made by the Commissioner pursuant to this section must be assessed against the carrier and remitted to the Commissioner.

7. ***When making any determination concerning the availability and accessibility of the services of any network plan or proposed network plan pursuant to this section, the Commissioner shall consider services that may be provided through telehealth, as defined in section 3 of this act, pursuant to the network plan or proposed network plan to be available services.***

8. As used in this section, “network plan” has the meaning ascribed to it in NRS 689B.570.

Sec. 29. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A policy of health insurance must include coverage for services provided to an insured through telehealth to the same extent ~~and in the same amount~~ as though provided in person or by other means.

2. An insurer shall not:

(a) Require an insured to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;

(b) Require a provider of health care to demonstrate that it is necessary to provide services to an insured through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;

(c) Refuse to provide the coverage described in subsection 1 because of the ~~location~~ distant site from which a provider of health care provides services through telehealth or the originating site at which an insured receives services through telehealth; or

(d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.

3. *A policy of health insurance must not require an insured to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. A policy of health insurance may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.*

4. *The provisions of this section do not require an insurer to:*

(a) Ensure that covered services are available to an insured through telehealth at a particular originating site;

(b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or

(c) Enter into a contract with any provider of health care or cover any service if the insurer is not otherwise required by law to do so.

5. *A policy of health insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void.*

~~{5.}~~ 6. *As used in this section:*

(a) "Distant site" has the meaning ascribed to it in section 3 of this act.

(b) "Originating site" has the meaning ascribed to it in section 3 of this act.

(c) "Provider of health care" has the meaning ascribed to it in NRS 439.820.

~~{(b)}~~ *(d) "Telehealth" has the meaning ascribed to it in section 3 of this act.*

Sec. 30. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~{,}~~ **and section 29 of this act.**

Sec. 31. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A policy of group or blanket health insurance must include coverage for services provided to an insured through telehealth to the same extent ~~(and in the same amount)~~ as though provided in person or by other means.*

2. *An insurer shall not:*

(a) Require an insured to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;

(b) Require a provider of health care to demonstrate that it is necessary to provide services to an insured through telehealth or receive any additional

type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;

(c) Refuse to provide the coverage described in subsection 1 because of the ~~location~~ distant site from which a provider of health care provides services through telehealth or the originating site at which an insured receives services through telehealth; or

(d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.

3. A policy of group or blanket health insurance must not require an insured to obtain prior authorization for any service provided through telehealth that is not required for that service when provided in person. A policy of group or blanket health insurance may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.

4. The provisions of this section do not require an insurer to:

(a) Ensure that covered services are available to an insured through telehealth at a particular originating site;

(b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or

(c) Enter into a contract with any provider of health care or cover any service if the insurer is not otherwise required by law to do so.

5. A policy of group or blanket health insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void.

~~5.1~~ 6. As used in this section:

(a) "Distant site" has the meaning ascribed to it in section 3 of this act.

(b) "Originating site" has the meaning ascribed to it in section 3 of this act.

(c) "Provider of health care" has the meaning ascribed to it in NRS 439.820.

~~(b)~~ (d) "Telehealth" has the meaning ascribed to it in section 3 of this act.

Sec. 32. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health benefit plan must include coverage for services provided to an insured through telehealth to the same extent ~~(and in the same amount)~~ as though provided in person or by other means.

2. A carrier shall not:

(a) Require an insured to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;

(b) Require a provider of health care to demonstrate that it is necessary to provide services to an insured through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;

(c) Refuse to provide the coverage described in subsection 1 because of the ~~location~~ distant site from which a provider of health care provides services through telehealth or the originating site at which an insured receives services through telehealth; or

(d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.

3. A health benefit plan must not require an insured to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. A health benefit plan may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.

4. The provisions of this section do not require a carrier to:

(a) Ensure that covered services are available to an insured through telehealth at a particular originating site;

(b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or

(c) Enter into a contract with any provider of health care or cover any service if the carrier is not otherwise required by law to do so.

5. A plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the plan or the renewal which is in conflict with this section is void.

~~5.~~ 6. As used in this section:

(a) "Distant site" has the meaning ascribed to it in section 3 of this act.

(b) "Originating site" has the meaning ascribed to it in section 3 of this act.

(c) "Provider of health care" has the meaning ascribed to it in NRS 439.820.

~~(b)~~ (d) "Telehealth" has the meaning ascribed to it in section 3 of this act.

Sec. 33. NRS 689C.155 is hereby amended to read as follows:

689C.155 The Commissioner may adopt regulations to carry out the provisions of NRS 689C.109 to 689C.143, inclusive, 689C.156 to 689C.159, inclusive, 689C.165, 689C.183, 689C.187, 689C.191 to 689C.198, inclusive, **and section 32 of this act**, 689C.203, 689C.207, 689C.265, 689C.325, 689C.355 and 689C.610 to 689C.940, inclusive, and to ensure that rating practices used by carriers serving small employers are consistent with those sections, including regulations that:

1. Ensure that differences in rates charged for health benefit plans by such carriers are reasonable and reflect only differences in the designs of the plans,

the terms of the coverage, the amount contributed by the employers to the cost of coverage and differences based on the rating factors established by the carrier.

2. Prescribe the manner in which rating factors may be used by such carriers.

Sec. 34. NRS 689C.156 is hereby amended to read as follows:

689C.156 1. As a condition of transacting business in this State with small employers, a carrier shall actively market to a small employer each health benefit plan which is actively marketed in this State by the carrier to any small employer in this State. A carrier shall be deemed to be actively marketing a health benefit plan when it makes available any of its plans to a small employer that is not currently receiving coverage under a health benefit plan issued by that carrier.

2. A carrier shall issue to a small employer any health benefit plan marketed in accordance with this section if the eligible small employer applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan that are not inconsistent with NRS 689C.015 to 689C.355, inclusive, **and section 32 of this act**, and 689C.610 to 689C.940, inclusive, except that a carrier is not required to issue a health benefit plan to a self-employed person who is covered by, or is eligible for coverage under, a health benefit plan offered by another employer.

3. If a health benefit plan marketed pursuant to this section provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, the carrier shall provide a system for resolving any complaints of an employee concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive.

Sec. 35. NRS 689C.425 is hereby amended to read as follows:

689C.425 A voluntary purchasing group and any contract issued to such a group pursuant to NRS 689C.360 to 689C.600, inclusive, are subject to the provisions of NRS 689C.015 to 689C.355, inclusive, **and section 32 of this act** to the extent applicable and not in conflict with the express provisions of NRS 687B.408 and 689C.360 to 689C.600, inclusive.

Sec. 36. Chapter 695A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A benefit contract must include coverage for services provided to an insured through telehealth to the same extent ~~(and in the same amount)~~ as though provided in person or by other means.

2. A society shall not:

(a) Require an insured to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;

(b) Require a provider of health care to demonstrate that it is necessary to provide services to an insured through telehealth or receive any additional

type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;

(c) Refuse to provide the coverage described in subsection 1 because of the ~~location~~ distant site from which a provider of health care provides services through telehealth or the originating site at which an insured receives services through telehealth; or

(d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.

3. A benefit contract must not require an insured to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. A benefit contract may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.

4. The provisions of this section do not require a society to:

(a) Ensure that covered services are available to an insured through telehealth at a particular originating site;

(b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or

(c) Enter into a contract with any provider of health care or cover any service if the society is not otherwise required by law to do so.

5. A benefit contract subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the contract or the renewal which is in conflict with this section is void.

~~5.1~~ 6. As used in this section:

(a) "Distant site" has the meaning ascribed to it in section 3 of this act.

(b) "Originating site" has the meaning ascribed to it in section 3 of this act.

(c) "Provider of health care" has the meaning ascribed to it in NRS 439.820.

~~(b)~~ (d) "Telehealth" has the meaning ascribed to it in section 3 of this act.

Sec. 37. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A contract for hospital, medical or dental services subject to the provisions of this chapter must include services provided to an insured through telehealth to the same extent ~~(and in the same amount)~~ as though provided in person or by other means.

2. A medical services corporation that issues contracts for hospital, medical or dental services shall not:

(a) Require an insured to establish a relationship in person with a provider of health care or provide any additional consent to or reason for

obtaining services through telehealth as a condition to providing the coverage described in subsection 1;

(b) Require a provider of health care to demonstrate that it is necessary to provide services to an insured through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;

(c) Refuse to provide the coverage described in subsection 1 because of the ~~location~~ distant site from which a provider of health care provides services through telehealth or the originating site at which an insured receives services through telehealth; or

(d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.

3. A contract for hospital, medical or dental services must not require an insured to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. A contract for hospital, medical or dental services may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.

4. The provisions of this section do not require a medical services corporation that issues contracts for hospital, medical or dental services to:

(a) Ensure that covered services are available to an insured through telehealth at a particular originating site;

(b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or

(c) Enter into a contract with any provider of health care or cover any service if the medical services corporation is not otherwise required by law to do so.

5. A contract for hospital, medical or dental services subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the contract or the renewal which is in conflict with this section is void.

~~5.7~~ 6. As used in this section:

(a) “Distant site” has the meaning ascribed to it in section 3 of this act.

(b) “Originating site” has the meaning ascribed to it in section 3 of this act.

(c) “Provider of health care” has the meaning ascribed to it in NRS 439.820.

~~(d)~~ (d) “Telehealth” has the meaning ascribed to it in section 3 of this act.

Sec. 38. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan of a health maintenance organization must include coverage for services provided to an enrollee through telehealth to the same

extent ~~(and in the same amount)~~ as though provided in person or by other means.

2. A health maintenance organization shall not:

(a) Require an enrollee to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;

(b) Require a provider of health care to demonstrate that it is necessary to provide services to an enrollee through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;

(c) Refuse to provide the coverage described in subsection 1 because of the ~~location~~ distant site from which a provider of health care provides services through telehealth or the originating site at which an enrollee receives services through telehealth; or

(d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.

3. A health care plan of a health maintenance organization must not require an enrollee to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. Such a health care plan may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.

4. The provisions of this section do not require a health maintenance organization to:

(a) Ensure that covered services are available to an enrollee through telehealth at a particular originating site;

(b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or

(c) Enter into a contract with any provider of health care or cover any service if the health maintenance organization is not otherwise required by law to do so.

5. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the plan or the renewal which is in conflict with this section is void.

~~5.1~~ 6. As used in this section:

(a) "Distant site" has the meaning ascribed to it in section 3 of this act.

(b) "Originating site" has the meaning ascribed to it in section 3 of this act.

(c) "Provider of health care" has the meaning ascribed to it in NRS 439.820.

~~(b)~~ (d) "Telehealth" has the meaning ascribed to it in section 3 of this act.

Sec. 39. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.173, inclusive, 695C.1733 to 695C.200, inclusive, and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 **and section 38 of this act** apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 40. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if the Commissioner finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, **and section 38 of this act** or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The Commissioner certifies that the health maintenance organization:

(1) Does not meet the requirements of subsection 1 of NRS 695C.080; or
(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as the Commissioner may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 41. Chapter 695D of NRS is hereby amended by adding thereto a new section to read as follows:

1. A plan for dental care must include coverage for services provided to a member through telehealth to the same extent ~~and in the same amount~~ as though provided in person or by other means.

2. An organization for dental care shall not:

(a) Require a member to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;

(b) Require a provider of health care to demonstrate that it is necessary to provide services to a member through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;

(c) Refuse to provide the coverage described in subsection 1 because of the ~~location~~ distant site from which a provider of health care provides services through telehealth or the originating site at which a member receives services through telehealth; or

(d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.

3. A plan for dental care must not require a member to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. A plan for dental care may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.

4. The provisions of this section do not require an organization for dental care to:

(a) Ensure that covered services are available to a member through telehealth at a particular originating site;

(b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or

(c) Enter into a contract with any provider of health care or cover any service if the organization for dental care is not otherwise required by law to do so.

5. A plan for dental care subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the plan or the renewal which is in conflict with this section is void.

~~15.1~~ 6. As used in this section:

(a) “Distant site” has the meaning ascribed to it in section 3 of this act.

(b) “Originating site” has the meaning ascribed to it in section 3 of this act.

(c) “Provider of health care” has the meaning ascribed to it in NRS 439.820.

~~(d)~~ (d) “Telehealth” has the meaning ascribed to it in section 3 of this act.

Sec. 42. NRS 695F.090 is hereby amended to read as follows:

695F.090 Prepaid limited health service organizations are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:

1. NRS 687B.310 to 687B.420, inclusive, concerning cancellation and nonrenewal of policies.
2. NRS 687B.122 to 687B.128, inclusive, concerning readability of policies.
3. The requirements of NRS 679B.152.
4. The fees imposed pursuant to NRS 449.465.
5. NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.
6. The assessment imposed pursuant to NRS 679B.700.
7. Chapter 683A of NRS.
8. To the extent applicable, the provisions of NRS 689B.340 to 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.
9. NRS 689A.035, 689A.410, 689A.413 and 689A.415 ~~[-]~~ **and section 29 of this act.**
10. NRS 680B.025 to 680B.039, inclusive, concerning premium tax, premium tax rate, annual report and estimated quarterly tax payments. For the purposes of this subsection, unless the context otherwise requires that a section apply only to insurers, any reference in those sections to “insurer” must be replaced by a reference to “prepaid limited health service organization.”
11. Chapter 692C of NRS, concerning holding companies.
12. NRS 689A.637, concerning health centers.

Sec. 43. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a managed care organization for group coverage must include coverage for services provided to an insured through telehealth to the same extent ~~and in the same amount~~ as though provided in person or by other means.

2. A managed care organization shall not:

(a) Require an insured to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;

(b) Require a provider of health care to demonstrate that it is necessary to provide services to an insured through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;

(c) Refuse to provide the coverage described in subsection 1 because of the ~~location~~ distant site from which a provider of health care provides services through telehealth or the originating site at which an insured receives services through telehealth; or

(d) *Require covered services to be provided through telehealth as a condition to providing coverage for such services.*

3. *A health care plan of a managed care organization must not require an insured to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. Such a health care plan may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.*

4. *The provisions of this section do not require a managed care organization to:*

(a) Ensure that covered services are available to an insured through telehealth at a particular originating site;

(b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or

(c) Enter into a contract with any provider of health care or cover any service if the managed care organization is not otherwise required by law to do so.

5. *Evidence of coverage that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the plan or the renewal which is in conflict with this section is void.*

~~5.7~~ 6. *As used in this section:*

(a) “Distant site” has the meaning ascribed to it in section 3 of this act.

(b) “Originating site” has the meaning ascribed to it in section 3 of this act.

(c) “Provider of health care” has the meaning ascribed to it in NRS 439.820.

~~(d)~~ *(d) “Telehealth” has the meaning ascribed to it in section 3 of this act.*

Sec. 44. NRS 633.165 is hereby repealed.

Sec. 45. This act becomes effective on July 1, 2015.

TEXT OF REPEALED SECTION

633.165 Telemedicine: Requirements for practice; exceptions; scope.

1. An osteopathic physician may engage in telemedicine from within or outside this State or the United States if he or she possesses an unrestricted license to practice osteopathic medicine in this State pursuant to this chapter. An osteopathic physician who engages in telemedicine:

(a) Except as otherwise provided by specific statute or regulation, shall comply with the provisions of this chapter and the regulations of the Board; and

(b) To the extent not inconsistent with the Nevada Constitution or the United States Constitution, is subject to the jurisdiction of the courts of this State.

2. If an osteopathic physician engages in telemedicine with a patient who is physically located in another state or territory of the United States, the osteopathic physician shall, before engaging in telemedicine with the patient, take any steps necessary to be authorized or licensed to practice osteopathic medicine in the other state or territory of the United States in which the patient is physically located.

3. Except as otherwise provided in subsections 4 and 5, before an osteopathic physician may engage in telemedicine pursuant to this section:

(a) A bona fide relationship between the osteopathic physician and the patient must exist which must include, without limitation, a history and an examination or consultation which occurred in person or through the use of telemedicine and which was sufficient to establish a diagnosis and identify any underlying medical conditions of the patient.

(b) The osteopathic physician must obtain informed consent from the patient or the legal representative of the patient to engage in telemedicine with the patient. The osteopathic physician shall document the consent as part of the permanent medical record of the patient.

(c) The osteopathic physician must inform the patient:

(1) That the patient or the legal representative of the patient may withdraw the consent provided pursuant to paragraph (b) at any time;

(2) Of the potential risks, consequences and benefits of telemedicine;

(3) Whether the osteopathic physician has a financial interest in the Internet website used to engage in telemedicine or in the products or services provided to the patient via telemedicine; and

(4) That the transmission of any confidential medical information while engaged in telemedicine is subject to all applicable federal and state laws with respect to the protection of and access to confidential medical information.

4. An osteopathic physician is not required to comply with the provisions of paragraph (a) of subsection 3 if the osteopathic physician engages in telemedicine for the purposes of making a diagnostic interpretation of a medical examination, study or test of the patient.

5. An osteopathic physician is not required to comply with the provisions of paragraph (a) or (c) of subsection 3 in an emergency medical situation.

6. The provisions of this section must not be interpreted or construed to:

(a) Modify, expand or alter the scope of practice of an osteopathic physician pursuant to this chapter; or

(b) Authorize the practice of osteopathic medicine or delivery of care by an osteopathic physician in a setting that is not authorized by law or in a manner that violates the standard of care required of an osteopathic physician pursuant to this chapter.

7. As used in this section, “telemedicine” means the practice of osteopathic medicine by using equipment that transfers information concerning the medical condition of a patient electronically, telephonically or by fiber optics.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 326.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 423.

AN ACT relating to motor vehicle registration; revising provisions relating to the requirements for certain special license plates; revising the depreciation schedule used for calculating the governmental services tax imposed on certain vehicles upon registration; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a resident of Nevada may obtain from the Department of Motor Vehicles a special license plate for any passenger car or light commercial vehicle inscribed with the words "CLASSIC VEHICLE" if the vehicle: (1) has a manufacturer's rated carrying capacity of 1 ton or less; (2) was manufactured at least 25 years before the application for the special license plate is submitted; and (3) contains only the original parts which were used to manufacture the vehicle or replacement parts that duplicate those original parts. (NRS 482.3816) **Section 1** of this bill revises those requirements, allowing the issuance of such special license plates ~~only~~ for a passenger car ~~[(thus excluding)] or light commercial [vehicles], and requiring that the owner provide proof satisfactory to the Department that the owner: (1) drives the passenger car solely for personal use and not more than 5,000 miles during an annual registration period; and (2) has another passenger car or motorcycle registered with the Department during the entire registration period of the passenger car for which the special license plates are sought.]~~ **vehicle manufactured before 1996.** Existing law provides that a vehicle for which such a special license plate has been issued is exempt from standards for exhaust emissions, fuel evaporative emissions and visible emissions of smoke if the owner of the vehicle certifies to the Department that the vehicle was not driven more than 5,000 miles during the immediately preceding year. (NRS 445B.760)

Existing law sets forth depreciation schedules for determining the amount of governmental services taxes due each year for used vehicles and establishes a minimum tax of \$16. (NRS 371.060) **Section 2** of this bill reduces the amount of governmental services taxes due annually for used vehicles by increasing the amount of depreciation allowed and decreases the minimum tax to \$6.

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

Section 1. NRS 482.3816 is hereby amended to read as follows:

482.3816 1. Except as otherwise provided in NRS 482.2655, the Department may issue special license plates and registration certificates to residents of Nevada for any ~~for~~ passenger car or light commercial vehicle;

~~(a) Having if the owner of the passenger car provides proof satisfactory to the Department upon initial registration that:~~

~~(a) The owner:~~

~~(1) Drives the passenger car solely for personal use; and~~

~~(2) Drove the passenger car not more than 5,000 miles during the immediately preceding year.~~

~~(b) The passenger car:~~

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

(b) Manufactured

~~{(2) Was manufactured at least 25 years} before {the application is submitted to the Department;} 1996; and~~

(c) Containing

~~{(2) Contains}~~ only the original parts which were used to manufacture the vehicle or replacement parts that duplicate those original parts.

~~{(c) The owner of the passenger car has another passenger car or motorcycle registered with the Department during the entire registration period of the passenger car for which the owner is seeking special license plates pursuant to this section.}~~

2. License plates issued pursuant to this section must be inscribed with the words "CLASSIC VEHICLE" and a number of characters, including numbers and letters, as determined necessary by the Director.

3. If, during a registration period, the holder of special plates issued pursuant to this section disposes of the vehicle ~~{passenger car}~~ to which the plates are affixed, the holder shall retain the plates and:

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

(b) Within 30 days after removing the plates from the vehicle, ~~{passenger car}~~, return them to the Department.

4. ~~{A passenger car for which the Department has issued special license plates pursuant of subsection 1 must, upon renewal of the registration, provide proof satisfactory to the Department that the passenger car still meets the requirements of paragraphs (a) and (c) of subsection 1. The Department shall verify the odometer reading of the passenger car upon renewal to ensure the passenger car meets the requirements of subparagraph 2 of paragraph (a) of subsection 1.}~~

~~5.~~ The fee for the special license plates is \$35, in addition to all other applicable registration and license fees and governmental services taxes. The fee for an annual renewal sticker is \$10.

5. ~~{6.}~~ In addition to the fees required pursuant to subsection 4, ~~{5.}~~ the Department shall charge and collect a fee for the first issuance of the special

license plates for those motor vehicles ~~(passenger cars)~~ exempted pursuant to NRS 445B.760 from the provisions of NRS 445B.770 to 445B.815, inclusive. The amount of the fee must be equal to the amount of the fee for a form certifying emission control compliance set forth in paragraph (c) of subsection 1 of NRS 445B.830.

~~6. 7.1~~ Fees paid to the Department pursuant to subsection ~~5 4.6~~ must be accounted for in the Pollution Control Account created by NRS 445B.830.

Sec. 2. NRS 371.060 is hereby amended to read as follows:

371.060 1. Except as otherwise provided in subsection 2 and subsection 2 of NRS 371.040, each vehicle must be depreciated by the Department for the purposes of the annual governmental services tax according to the following schedule

Age	Percentage of Initial Value
New	100 percent
1 year	~~95~~ 85 percent
2 years.....	~~85~~ 75 percent
3 years.....	~~75~~ 65 percent
4 years.....	~~65~~ 55 percent
5 years.....	~~55~~ 45 percent
6 years.....	~~45~~ 35 percent
7 years.....	~~35~~ 25 percent
8 years.....	~~25~~ 15 percent
9 years or more	~~15~~ 5 percent

2. Except as otherwise provided in subsection 2 of NRS 371.040, each bus, truck or truck-tractor having a declared gross weight of 10,000 pounds or more and each trailer or semitrailer having an unladen weight of 4,000 pounds or more must be depreciated by the Department for the purposes of the annual governmental services tax according to the following schedule:

Age	Percentage of Initial Value
New	100 percent
1 year	~~85~~ 75 percent
2 years.....	~~69~~ 59 percent
3 years.....	~~57~~ 47 percent
4 years.....	~~47~~ 37 percent
5 years.....	~~38~~ 28 percent
6 years.....	~~33~~ 23 percent
7 years.....	~~30~~ 20 percent
8 years.....	~~27~~ 17 percent
9 years.....	~~25~~ 15 percent
10 years or more	~~23~~ 13 percent

3. Notwithstanding any other provision of this section, the minimum amount of the governmental services tax:

(a) On any trailer having an unladen weight of 1,000 pounds or less is \$3; and

(b) On any other vehicle is ~~[\$16.]~~ \$6.

4. For the purposes of this section, a vehicle shall be deemed a “new” vehicle if the vehicle has never been registered with the Department and has never been registered with the appropriate agency of any other state, the District of Columbia, any territory or possession of the United States or any foreign state, province or country.

~~Sec. 3. [Notwithstanding the amendatory provisions of this act, a person who is the owner of a light commercial vehicle that bears valid “CLASSIC VEHICLE” license plates issued pursuant to NRS 482.3816 before July 1, 2015, may retain those plates until the current period of registration expires. Within 30 days after such current period of registration expires, the owner shall remove the plates from the light commercial vehicle and surrender them to the Department of Motor Vehicles.] (Deleted by amendment.)~~

Sec. 4. This act becomes effective on July 1, 2015.

Assemblyman Wheeler moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 381.

Bill read second time.

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

Amendment No. 516.

AN ACT relating to elections; ~~extending the deadlines for filling vacancies in certain nominations and for making changes to the ballot of a general election; eliminating~~ **providing certain remedies and penalties in preelection challenges to the qualifications of a candidate; changing** the deadline for an elector to file ~~a written challenge on the grounds that a candidate fails to meet any qualification required for the office which the candidate is seeking; requiring a court to order that a candidate whose qualifications to hold office are successfully challenged pay certain fees, costs and penalties; revising the requirements for the Secretary of State, county clerk and city clerk to notify voters of the disqualification of a candidate;~~ **certain preelection challenges to the qualifications of a candidate; making conforming changes to the definition of “actual residence” for purposes of candidacy; providing penalties;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~[Existing law sets forth procedures for filling certain vacancies in a nonpartisan office, nomination for a nonpartisan office and major political party nominations for a partisan office that occur before 5 p.m. on the fourth~~

~~Friday in June of the year in which the general election is held. (NRS 293.165, 293.166, 293.268) Sections 1, 2 and 5 of this bill extend the deadline for filling these vacancies to July 31 of the year in which the general election is held.]~~

Under existing law, if a candidate is disqualified from taking office because the candidate fails to meet any qualification required for the office, the Secretary of State and local election officials must post a sign at each polling place where the candidate's name will appear on the ballot informing voters that the candidate is disqualified from taking office. (NRS 293.184, 293C.1865) Additionally, under existing law, there are several different types of preelection court actions that may be brought to challenge a candidate on grounds that the candidate fails to meet any qualification required for the office, including actions for a declaratory judgment or a writ of mandamus. (NRS 281.050, 293.182, 293C.186; *DeStefano v. Berkus*, 121 Nev. 627, 628-31 (2005); *Child v. Lomax*, 124 Nev. 600, 604-05 (2008))

Section 2.5 of this bill provides that in any preelection action where the court finds that a candidate fails to meet any qualification required for the office: (1) the candidate is disqualified from taking office; (2) the court may order the candidate to pay the attorney's fees and costs of the party who brought the action, including the Attorney General or a district attorney or city attorney; (3) in addition to any other notice required by law, the court may direct the Secretary of State and local election officials to notify voters in any other manner the court deems appropriate that the person is disqualified from taking office; and (4) if the Attorney General or a district attorney or city attorney brought the action, the court shall order the person to pay to the State of Nevada a civil penalty of not less than \$5,000.

Existing law authorizes an elector to ~~submit~~ file a written challenge to a ~~person's candidacy on the grounds that the person fails to meet any qualification required for the office; the deadline for filing a written challenge is~~ candidate's qualifications not later than 5 working days after the last day ~~for the candidate to formally withdraw his or her candidacy. Depending on the state or local office being sought by the candidate, the Attorney General or the appropriate district attorney or city attorney must review the challenge and, if he or she determines that probable cause exists to support the challenge, must bring a preelection court action challenging the candidate's qualifications within a statutorily-prescribed period. (NRS 293.182, 293C.186_4) ; *Williams v. Clark County Dist. Att'y*, 118 Nev. 473, 477-79 (2002) (interpreting NRS 293.182 to permit an elector to file a written challenge not later than 5 working days after the last day for the candidate to formally withdraw his or her candidacy))~~ Sections 3 and 6 of this bill ~~eliminate~~ change the deadline for an elector to file such a written challenge. ~~Sections 3 and 6 also require that if a court determines by a preponderance of the evidence that the challenge to a person's candidacy is valid or that the person otherwise fails to~~

~~meet any qualification required for the office, the court must order the challenged person to pay: (1) the attorney's fees and court costs of the elector who filed the challenge; and (2) a civil penalty of not less than \$5,000.~~

~~— If a person is disqualified from entering upon the duties of office, existing law requires the Secretary of State and the county clerk or city clerk, as applicable, to post a sign at each polling place where a person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of office. (NRS 293.184, 293C.1865) Sections 4 and 7 of this bill require that the Secretary of State, county clerk or city clerk, as applicable, also notify the voters in any other manner ordered by the court that the person is disqualified from entering upon the duties of office.~~ **to the last Monday immediately preceding the first day of early voting for any general election.**

Existing law defines the term "actual residence" to mean the place where a candidate is legally domiciled and maintains a permanent habitation, and when a candidate maintains more than one place of permanent habitation, the place designated by the candidate as his or her principal permanent habitation is deemed to be the candidate's actual residence. (NRS 281.050) The Nevada Supreme Court has held that the place designated by the candidate as his or her principal permanent habitation must be the place where the candidate actually resides and is legally domiciled in order for the candidate to be eligible to the office. (Williams v. Clark County Dist. Att'y, 118 Nev. 473, 484-86 (2002); Chachas v. Miller, 120 Nev. 51, 53-56 (2004)) Section 8 of this bill amends existing law to reflect the Supreme Court's holding.

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

Section 1. ~~[NRS 293.165 is hereby amended to read as follows:~~

~~— 293.165 1. Except as otherwise provided in NRS 293.166, a vacancy occurring in a major or minor political party nomination for a partisan office may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party or by the executive committee of the minor political party subject to the provisions of subsections 3, 4 and 5.~~

~~— 2. A vacancy occurring in a nonpartisan office or nomination for a nonpartisan office after the close of filing and before 5 p.m. [of the fourth Friday in June] **on July 31** of the year in which the general election is held must be filled by the person who receives or received the next highest vote for the nomination in the primary election if a primary election was held for that nonpartisan office. If no primary election was held for that nonpartisan office or if there was not more than one person who was seeking the nonpartisan nomination in the primary election, a person may become a candidate for the nonpartisan office at the general election if the person files a declaration of candidacy or acceptance of candidacy, and pays the fee required by~~

~~NRS 293.193, on or after 8 a.m. on the third Monday in June and before 5 p.m. on the fourth Friday in June;~~

~~3. If a vacancy occurs in a major political party nomination for a partisan office after the primary election and before 5 p.m. on [the fourth Friday in June] **July 31** of the year in which the general election is held and:~~

~~(a) The vacancy occurs because the nominee dies or is adjudicated insane or mentally incompetent, the vacancy may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party;~~

~~(b) The vacancy occurs for a reason other than the reasons described in paragraph (a), the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists;~~

~~4. No change may be made on the ballot for the general election after 5 p.m. on [the fourth Friday in June] **July 31** of the year in which the general election is held. If, after that time and date:~~

~~(a) A nominee dies or is adjudicated insane or mentally incompetent; or~~

~~(b) A vacancy in the nomination is otherwise created;~~

~~the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists.~~

~~5. All designations provided for in this section must be filed on or before 5 p.m. on [the fourth Friday in June] **July 31** of the year in which the general election is held. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.] (Deleted by amendment.)~~

Sec. 2. [NRS 293.166 is hereby amended to read as follows:

~~293.166 1. A vacancy occurring in a party nomination for the office of State Senator, Assemblyman or Assemblywoman from a legislative district comprising more than one county may be filled as follows, subject to the provisions of subsections 2, 3 and 4. The county commissioners of each county, all or part of which is included within the legislative district, shall meet to appoint a person who is of the same political party as the former nominee and who actually, as opposed to constructively, resides in the district to fill the vacancy, with the chair of the board of county commissioners of the county whose population residing within the district is the greatest presiding. Each board of county commissioners shall first meet separately and determine the single candidate it will nominate to fill the vacancy. Then, the boards shall meet jointly and the chairs on behalf of the boards shall cast a proportionate number of votes according to the percent, rounded to the nearest whole percent, which the population of its county is of the population of the entire district. Populations must be determined by the last decennial census or special census conducted by the Bureau of the Census of the United States Department of Commerce. The person who receives a plurality of these votes is appointed to fill the vacancy. If no person receives a plurality of the votes, the boards of county commissioners of the respective counties shall each as a group select~~

~~one candidate, and the nominee must be chosen by drawing lots among the persons so selected.~~

~~2. If a vacancy occurs in a party nomination for the office of State Senator, Assemblyman or Assemblywoman from a legislative district comprising more than one county after the primary election and before 5 p.m. on [the fourth Friday in June] **July 31** of the year in which the general election is held and:~~

~~(a) The vacancy occurs because the nominee dies or is adjudicated insane or mentally incompetent, the vacancy may be filled pursuant to the provisions of subsection 1.~~

~~(b) The vacancy occurs for a reason other than the reasons described in paragraph (a), the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists.~~

~~3. No change may be made on the ballot for the general election after 5 p.m. on [the fourth Friday in June] **July 31** of the year in which the general election is held. If, after that time and date:~~

~~(a) A nominee dies or is adjudicated insane or mentally incompetent; or~~

~~(b) A vacancy in the nomination is otherwise created,~~

~~the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists.~~

~~4. The designation of a nominee pursuant to this section must be filed with the Secretary of State on or before 5 p.m. on [the fourth Friday in June] **July 31** of the year in which the general election is held, and the statutory filing fee must be paid with the designation. **(Deleted by amendment.)**~~

Sec. 2.5. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any other remedy or penalty provided by law, if a court of competent jurisdiction finds in any preelection action that a person who is a candidate for any office fails to meet any qualification required for the office pursuant to the Constitution or laws of this State:

(a) The person is disqualified from entering upon the duties of the office for which he or she filed a declaration of candidacy or acceptance of candidacy;

(b) The court may order the person to pay the reasonable attorney's fees and costs of the party who brought the action, including, without limitation, the Attorney General or a district attorney or city attorney;

(c) In addition to any other notice required by law, the court may direct the Secretary of State and county clerk or city clerk, as applicable, to notify voters in any other manner the court deems appropriate that the person is disqualified from entering upon the duties of the office; and

(d) If the Attorney General or a district attorney or city attorney brought the action, the court shall order the person to pay to the State of Nevada a civil penalty of not less than \$5,000. Any civil penalty collected pursuant to this paragraph must be deposited by the Attorney General or district attorney or city attorney, as applicable, for credit to the State General Fund in the financial institution designated by the State Treasurer.

2. The provisions of this section apply to any preelection action brought to challenge a person who is a candidate for any office on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or laws of this State, including, without limitation, any action brought pursuant to NRS 281.050, 293.182 or 293C.186 or any action brought for:

(a) Declaratory or injunctive relief pursuant to chapter 30 or 33 of NRS;

(b) Writ relief pursuant to chapter 34 of NRS; or

(c) Any other legal or equitable relief.

Sec. 3. NRS 293.182 is hereby amended to read as follows:

293.182 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than 5 ~~[days after]~~ p.m. on the last ~~[day the person may withdraw his or her candidacy]~~ Monday immediately preceding the first day of the period of early voting by personal appearance for the general election pursuant to ~~NRS [293.202,]~~ 293.3568, an elector may file with the filing officer for the office a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or ~~[a statute]~~ laws of this State ~~[, including, without limitation, a requirement concerning age or residency.]~~ Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and ~~[court]~~ costs of the ~~[challenged person.]~~ person who is being challenged.

2. A challenge filed pursuant to subsection 1 must:

(a) Indicate each qualification the person fails to meet;

(b) Have attached all documentation and evidence supporting the challenge; and

(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1:

(a) The Secretary of State shall immediately transmit the challenge to the Attorney General.

(b) A filing officer other than the Secretary of State shall immediately transmit the challenge to the district attorney.

4. If the Attorney General or district attorney determines that probable cause exists to support the challenge, the Attorney General or district attorney shall, not later than 5 working days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the Constitution or ~~the statute~~ laws of this State, or if the person fails to appear at the hearing:

(a) The name of the person must not appear on any ballot for the election for the office for which the person filed the declaration of candidacy or acceptance of candidacy; and

(b) The person is ~~disqualified from entering upon the duties of the office for which he or she filed the declaration of candidacy or acceptance of candidacy.~~

~~—(c) The court shall order that the challenged person pay the attorney's fees and court costs of the elector who filed the challenge; and~~

~~—(d) The court shall order the person to pay to the State of Nevada a civil penalty of not less than \$5,000. Any civil penalty collected pursuant to this paragraph must be deposited by the Attorney General or district attorney, as applicable, for credit to the State General Fund in the bank designated by the State Treasurer, subject to the provisions of section 2.5 of this act.~~

6. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and ~~court~~ costs of the ~~challenged person.~~ person who was challenged.

Sec. 4. ~~NRS 293.184 is hereby amended to read as follows:~~

~~—293.184 1. In addition to any other penalty provided by law, if a person willfully files a declaration of candidacy or acceptance of candidacy knowing that the declaration of candidacy or acceptance of candidacy contains a false statement:~~

~~—(a) Except as otherwise provided in NRS 293.165 and 293.166, the name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy; and~~

~~—(b) The person is disqualified from entering upon the duties of the office for which he or she was a candidate.~~

~~—2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election is disqualified because the deadline set forth in NRS 293.165 and 293.166 for making changes to the ballot has passed, the Secretary of State and county clerk must [post]:~~

~~—(a) Post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of office [.] ; and~~

~~—(b) Notify voters in any other manner required by a court order that the person is disqualified from entering upon the duties of office.~~ (Deleted by amendment.)

Sec. 5. ~~NRS 293.368 is hereby amended to read as follows:~~

~~—293.368 1. Except as otherwise provided in subsection 4 of NRS 293.165, if a candidate on the ballot at a primary election dies after 5 p.m.~~

~~of the second Tuesday in April, the deceased candidate's name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.~~

~~2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he or she was a candidate, except as otherwise provided in subsection 2 of NRS 293.165, the deceased candidate shall be deemed nominated and the vacancy in the nomination must be filled as provided in NRS 293.165 or 293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.~~

~~3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. on [the fourth Friday in June] **July 31** of the year in which the general election is held, the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.~~

~~4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, the deceased candidate shall be deemed elected and the office to which he or she was elected shall be deemed vacant at the beginning of the term for which he or she was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.~~ **(Deleted by amendment.)**

Sec. 6. NRS 293C.186 is hereby amended to read as follows:

293C.186 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than 5 [working days after] p.m. on the last [day the person may withdraw his or her candidacy] Monday immediately preceding the first day of the period of early voting by personal appearance for the general city election pursuant to NRS [293C.195,] 293C.3568, an elector may file with the city clerk a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the constitution or ~~[a statute]~~ **laws** of this State. ~~[including, without limitation, a requirement concerning age or residency.]~~ Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and ~~[court]~~ costs of the ~~[challenged person.]~~ **person who is being challenged.**

2. A challenge filed pursuant to subsection 1 must:

- (a) Indicate each qualification the person fails to meet;
- (b) Have attached all documentation and evidence supporting the challenge; and
- (c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1, the city clerk shall immediately transmit the challenge to the city attorney.

4. If the city attorney determines that probable cause exists to support the challenge, the city attorney shall, not later than 5 working days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the constitution or ~~the statute~~ laws of this State, or if the person fails to appear at the hearing:

(a) The name of the person must not appear on any ballot for the election for the office for which the person filed the declaration of candidacy or acceptance of candidacy; and

(b) The person is ~~disqualified from entering upon the duties of the office for which he or she filed the declaration of candidacy or acceptance of candidacy.~~

~~—(c) The court shall order that the challenged person pay the attorney's fees and court costs of the elector who filed the challenge; and~~

~~—(d) The court shall order the person to pay to the State of Nevada a civil penalty of not less than \$5,000. Any civil penalty collected pursuant to this paragraph must be deposited by the city attorney for credit to the State General Fund in the bank designated by the State Treasurer.~~ subject to the provisions of section 2.5 of this act.

6. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and ~~court~~ costs of the ~~challenged person.~~ person who was challenged.

Sec. 7. ~~NRS 293C.1865 is hereby amended to read as follows:~~

~~—293C.1865 1. In addition to any other penalty provided by law, if a person willfully files a declaration of candidacy or acceptance of candidacy knowing that the declaration of candidacy or acceptance of candidacy contains a false statement:~~

~~—(a) Except as otherwise provided in NRS 293.165 or 293.166, the name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy; and~~

~~—(b) The person is disqualified from entering upon the duties of the office for which he or she was a candidate.~~

~~—2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election is disqualified because the deadline set forth in NRS 293.165 and 293.166 for making changes to the ballot has passed, the Secretary of State and city clerk must [post]:~~

~~(a) Post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of office [.] ; and~~

~~(b) Notify voters in any other manner required by a court order that the person is disqualified from entering upon the duties of office.] (Deleted by amendment.)~~

Sec. 8. NRS 281.050 is hereby amended to read as follows:

281.050 1. The residence of a person with reference to his or her eligibility to any office is the person's actual residence within the State, ~~for~~ county, ~~for~~ district, ward, subdistrict or any other unit prescribed by law, as the case may be, during all the period for which residence is claimed by the person. If any person absents himself or herself from the jurisdiction of that person's residence with the intention in good faith to return without delay and continue such residence, the period of absence must not be considered in determining the question of residence.

2. If a person who has filed ~~as a candidate~~ a declaration of candidacy or acceptance of candidacy for any elective office moves the person's residence out of the State, county, district, ward, subdistrict or any other unit prescribed by law ~~for which the person is a candidate and~~ , as the case may be, in which the person is required actually, as opposed to constructively, to reside ~~in~~ in order for the person to be eligible to the office, a vacancy is created thereby and the appropriate action for filling the vacancy must be taken. A person shall be deemed to have moved the person's residence for the purposes of this section if:

(a) The person has acted affirmatively to remove himself or herself from one place; and

(b) The person has an intention to remain in another place.

3. The district court has jurisdiction to determine the question of residence in an action for declaratory judgment.

4. If, in any preelection action for declaratory judgment, the district court finds that a person who has filed a declaration of candidacy or acceptance of candidacy for any elective office fails to meet any qualification concerning residence required for the office pursuant to the Constitution or laws of this State, the person is subject to the provisions of section 2.5 of this act.

5. As used in this section ~~["actual"]~~ :

(a) "Actual" residence means the place of permanent habitation where a person actually resides and is legally domiciled, ~~and maintains a permanent habitation.~~ If the person maintains more than one ~~such~~ place of permanent habitation, the place the person declares to be the person's principal permanent habitation when filing a declaration of candidacy or ~~affidavit pursuant to NRS 293.177 or 293C.185 shall be deemed to~~ acceptance of candidacy for any elective office must be the ~~person's actual residence.~~ place where the person actually resides and is legally domiciled in order for the person to be eligible to the office.

(b) “Declaration of candidacy or acceptance of candidacy” means a declaration of candidacy or acceptance of candidacy filed pursuant to chapter 293 or 293C of NRS.

~~[Sec. 8.]~~ **Sec. 9.** This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and
2. On January 1, 2016, for all other purposes.

Assemblyman Stewart moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 389.

Bill read second time.

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

Amendment No. 374.

AN ACT relating to employee leasing companies; ~~revising the method for calculation of unemployment contributions for employees of an employee leasing company leased to a client company;~~ altering the definition of “employee leasing company” to describe the nature of the relevant agreement; authorizing an employee leasing company that applies for a certificate of registration to provide consolidated or combined financial statements with its application; **deeming the client company of an employee leasing company to be the employer of the employees it leases for purposes of unemployment compensation;** repealing the requirement that an employee leasing company maintain an office in this State; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~[Existing law requires employers to contribute a percentage of an employee’s wages to the Unemployment Compensation Fund. (Chapter 612 of NRS) The standard rate of contribution is 2.95 percent of the employee’s wages; however, an employer may be eligible for a different rate of contribution based on the employer’s actual payroll, contribution and benefit experience. (NRS 612.540-612.550) Section 1 of this bill allows an employee leasing company to choose whether to use its own calculated contribution rate or the calculated contribution rate of a client company for employees leased to the client company.]~~

Existing law defines the term “employee leasing company.” (NRS 616B.670) **Section 2** of this bill revises the definition of an employee leasing company to emphasize that the agreement between an employee leasing company and client company contemplates an ongoing relationship with an allocation of rights, duties and obligations.

Existing law requires an employee leasing company to have a certificate of registration to operate in this State. (NRS 616B.673) To receive a certificate

of registration, an employee leasing company must submit an application to the Administrator of the Division of Industrial Relations of the Department of Business and Industry which must include, among other things, financial statements of the applicant. (NRS 616B.679) **Section 3** of this bill allows an employee leasing company to meet this requirement by submitting consolidated or combined financial statements that include, but are not exclusive to, the employee leasing company.

Section 4 of this bill deems the client company of an employee leasing company to be the employer of the employees it leases for the purposes of the chapter of the laws of this State that pertain to unemployment compensation.

Existing law requires an employee leasing company to maintain an office or similar site in this State for retaining, reviewing and auditing its payroll records and agreements with client companies. In addition, the office must be open during normal business hours for the inspection and copying of certain records by employees and the public. (NRS 616B.682) **Section 5** of this bill repeals these provisions.

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

Section 1. ~~Chapter 612 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. For the purposes of this section and NRS 612.535 to 612.550, inclusive, an employee leasing company's contribution rate for any employee that the employee leasing company leases to a client company must, pursuant to the selection of the employee leasing company in accordance with subsections 2 and 3, be based on:~~

~~(a) The classification calculated pursuant to NRS 612.550 for the employee leasing company based on the employee leasing company's actual payroll, contribution and benefit experience; or~~

~~(b) The classification calculated pursuant to NRS 612.550 for each client company based on the client company's actual payroll, contribution and benefit experience. If the employee leasing company chooses to have the contribution rate for employees calculated pursuant to this paragraph, the employee leasing company may pay the required contributions as a third party, on behalf of the client company, into the account of the client company.~~

~~2. An employee leasing company that holds a valid certificate of registration pursuant to NRS 616B.670 to 616B.697, inclusive, before October 1, 2015, must, before January 1, 2016, select which of the classification options provided for in subsection 1 that the employee leasing company elects to use. The selected classification option becomes effective on January 1, 2016. If an employee leasing company fails to make an election of a classification option before January 1, 2016, the Administrator shall make the election on behalf of the employee leasing company. Once an~~

~~employee leasing company has made an election or, due to a failure to make an election in a timely manner the Administrator has made an election on behalf of the employee leasing company pursuant to this section, the employee leasing company may not thereafter elect another classification option.~~

~~3. An employee leasing company that receives a valid certificate of registration pursuant to NRS 616B.670 to 616B.697, inclusive, on or after October 1, 2015, must, within 120 days after receipt of the certificate, elect which of the classification options provided for in subsection 1 that the employee leasing company desires to use. The selected rate classification option becomes effective on January 1 of the year immediately following the year in which the employee leasing company makes the election. If an employee leasing company fails to make an election of a classification option within 120 days after receipt of a certificate, the Administrator shall make the election on behalf of the employee leasing company. Once an employee leasing company has made an election or, due to a failure to make an election in a timely manner the Administrator has made an election on behalf of the employee leasing company pursuant to this section, the employee leasing company may not elect another classification option.~~

~~4. As used in this section, unless the context otherwise requires:~~

~~(a) "Client company" has the meaning ascribed to it in NRS 616B.670.~~

~~(b) "Employee leasing company" has the meaning ascribed to it in NRS 616B.670. (Deleted by amendment.)~~

Sec. 2. NRS 616B.670 is hereby amended to read as follows:

616B.670 As used in NRS 616B.670 to 616B.697, inclusive, unless the context otherwise requires:

1. "Applicant" means a person seeking a certificate of registration pursuant to NRS 616B.670 to 616B.697, inclusive, to operate an employee leasing company.

2. "Client company" means a company which leases employees, for a fee, from an employee leasing company pursuant to a written or oral agreement.

3. "Employee leasing company" means a company which, pursuant to a written or oral agreement {:

~~(a) Places} intended by the parties to create an ongoing relationship, places any of the regular, full-time employees of a client company on its payroll and, for a fee, leases them to the client company . {on a regular basis without any limitation on the duration of their employment; or~~

~~(b) Leases to a client company:~~

~~(1) Five or more part time or full time employees; or~~

~~(2) Ten percent or more of the total number of employees within a classification of risk established by the Commissioner.}~~

4. "Ongoing relationship" means a relationship wherein the rights, duties and obligations of an employer which arise out of an employment relationship are allocated between the employee leasing company and the client company on an ongoing, long-term basis. The term does not include a

temporary or project-specific agreement between an employee leasing company and a client company.

Sec. 3. NRS 616B.679 is hereby amended to read as follows:

616B.679 1. Each application must include:

(a) The applicant's name and title of his or her position with the employee leasing company.

(b) The applicant's age, place of birth and social security number.

(c) The applicant's address.

(d) The business address of the employee leasing company.

(e) The business address of the registered agent of the employee leasing company, if the applicant is not the registered agent.

(f) If the applicant is a:

(1) Partnership, the name of the partnership and the name, address, age, social security number and title of each partner.

(2) Corporation, the name of the corporation and the name, address, age, social security number and title of each officer of the corporation.

(g) Proof of:

(1) Compliance with the provisions of chapter 76 of NRS.

(2) The payment of any premiums for industrial insurance required by chapters 616A to 617, inclusive, of NRS.

(3) The payment of contributions or payments in lieu of contributions required by chapter 612 of NRS.

(4) Insurance coverage for any benefit plan from an insurer authorized pursuant to title 57 of NRS that is offered by the employee leasing company to its employees.

(h) A financial statement of the applicant setting forth the financial condition of the employee leasing company. Except as otherwise provided in subsection 5, the financial statement must include, without limitation:

(1) For an application for issuance of a certificate of registration, the most recent audited financial statement ~~for~~ **that includes** the applicant, which must have been completed not more than 13 months before the date of application; or

(2) For an application for renewal of a certificate of registration, an audited financial statement **that includes the applicant and** which must have been completed not more than 180 days after the end of the applicant's fiscal year.

(i) A registration or renewal fee of \$500.

(j) Any other information the Administrator requires.

2. Each application must be notarized and signed under penalty of perjury:

(a) If the applicant is a sole proprietorship, by the sole proprietor.

(b) If the applicant is a partnership, by each partner.

(c) If the applicant is a corporation, by each officer of the corporation.

3. An applicant shall submit to the Administrator any change in the information required by this section within 30 days after the change occurs. The Administrator may revoke the certificate of registration of an employee

leasing company which fails to comply with the provisions of NRS 616B.670 to 616B.697, inclusive.

4. If an insurer cancels an employee leasing company's policy, the insurer shall immediately notify the Administrator in writing. The notice must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first-class mail or electronic transmission to the Administrator.

5. A financial statement submitted with an application pursuant to this section must be prepared in accordance with generally accepted accounting principles, must be audited by an independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located and must be without qualification as to the status of the employee leasing company as a going concern. ~~Am~~ **Except as otherwise provided in subsection 6, an** employee leasing company that has not had sufficient operating history to have an audited financial statement based upon at least 12 months of operating history must present financial statements reviewed by a certified public accountant covering its entire operating history. The financial statements must be prepared not more than 13 months before the submission of an application and must:

(a) ~~Indicate that the applicant has~~ **Demonstrate, in the statement,** positive working capital, as defined by generally accepted accounting principles, for the period covered by the financial statements; or

(b) Be accompanied by a bond, irrevocable letter of credit or securities with a minimum market value equaling the maximum deficiency in working capital for the period covered by the financial statements plus \$100,000. The bond, irrevocable letter of credit or securities must be held by a depository institution designated by the Administrator to secure payment by the applicant of all taxes, wages, benefits or other entitlements payable by the applicant.

6. An applicant required to submit a financial statement pursuant to this section may submit a consolidated or combined audited financial statement that includes, but is not exclusive to, the applicant.

Sec. 4. NRS 616B.691 is hereby amended to read as follows:

616B.691 1. ~~Am~~ **A client company of an** employee leasing company ~~[which complies with the provisions of]~~ **as defined in** NRS 616B.670 ~~to 616B.697, inclusive,~~ shall be deemed to be ~~the~~ **an** employer of the employees it leases ~~to a client company. The provisions of this subsection apply only~~ for the purposes of ~~chapters~~ **chapter** 612 ~~and 616A to 617, inclusive,~~ of NRS.

2. An employee leasing company shall be deemed to be an employer of its leased employees for the purposes of offering, sponsoring and maintaining any benefit plans. The provisions of this subsection do not affect the employer-employee relationship that exists between a leased employee and a client company.

3. ~~An employee leasing company shall comply with the provisions of section 1 of this act.~~

~~4.1~~ An employee leasing company shall not offer, sponsor or maintain for its leased employees any self-funded insurance program. An employee leasing company shall not act as a self-insured employer or be a member of an association of self-insured public or private employers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS or title 57 of NRS.

~~4.1~~ ~~5.1~~ If an employee leasing company fails to:

(a) Pay any contributions, premiums, forfeits or interest due; or

(b) Submit any reports or other information required,

→ pursuant to this chapter or chapter ~~612~~ 616A, 616C, 616D or 617 of NRS, the client company is jointly and severally liable for the contributions, premiums, forfeits or interest attributable to the wages of the employees leased to it by the employee leasing company.

Sec. 5. NRS 616B.682 is hereby repealed.

TEXT OF REPEALED SECTION

616B.682 Employee leasing company to maintain office or similar site in State; maintenance, inspection and copying of records. Each employee leasing company operating in this State shall:

1. Maintain an office or similar site in this State for retaining, reviewing and auditing its payroll records and written agreements with client companies.

2. Maintain at that office or similar site in this State records establishing that the employee leasing company:

(a) Maintains current policies of workers' compensation insurance providing coverage for each employee it leases to each client company; or

(b) Pursuant to NRS 616B.692, otherwise satisfies its obligation to provide coverage for workers' compensation for the employees that the employee leasing company leases to each client company.

3. Keep the records described in subsection 2 open for inspection and copying, during its regular business hours, by:

(a) Each employee it leases to each client company and any representative of each such employee; and

(b) The public.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 408.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 421.

ASSEMBLYMEN FIORE, SHELTON, DOOLING, TITUS, SEAMAN; DICKMAN, ELLISON, GARDNER, HANSEN, JONES, MOORE, ~~[MUNFORD, O'NEILL]~~, OSCARSON, AND WHEELER.

SUMMARY—Enacts provisions ~~[governing the acquisition and use]~~ **relating to certain uses of [certain public lands,] land and the exercise of law enforcement authority in this State.** (BDR 26-1060)

AN ACT relating to ~~[public lands; prohibiting the Federal Government from owning or regulating certain public lands or the right to use public waters; requiring the State Land Registrar to adopt regulations that provide for the appropriation and registration of grazing, logging, mineral development or other beneficial use rights on public lands; requiring the State Land Registrar to sell permits for grazing, logging, mineral development or other beneficial uses on public lands for which such rights are not registered and appropriated; requiring the board of county commissioners of each county to impose a tax on profits from the beneficial use of public lands;]~~ **governmental administration; declaring the support of the Legislature for certain uses of private property and public lands in this State; authorizing the sheriff of a county to enter into an agreement with a federal agency concerning primary responsibility or the exercise of law enforcement authority on land managed by the federal agency under certain circumstances; providing that sheriffs and their deputies are the primary law enforcement officers in the unincorporated areas of their respective counties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[The United States Constitution authorizes the Federal Government to exercise authority over land purchased by consent of the legislature of the state in which the land lies for the erection of forts, magazines, arsenals, dockyards and other needful buildings. (U.S. Const. Art. I, 8, cl. 17)]~~

~~—Existing law: (1) sets forth the manner in which an officer of an agency or instrumentality of the United States may apply to the Director of the Legislative Counsel Bureau to obtain a cession of concurrent criminal jurisdiction or other jurisdiction from the State of Nevada; and (2) authorizes the Legislature to enact a resolution ceding that jurisdiction to the United States respecting any land held by the United States for the erection of forts, magazines, arsenals, dockyards or other needful buildings or for any other governmental purpose authorized by the Constitution of the United States. (NRS 328.065-328.135)~~

~~—Section 3 of this bill prohibits the Federal Government from owning or regulating activity on any land in this State that it has not acquired with the consent of the Legislature and upon which it has not erected forts, magazines, arsenals, dockyards or other needful buildings. Section 3 provides that the rights to own and use such land are the common property of the citizens of this State. Section 3 requires the State to respect all agreements that guarantee persons the right to use such land.~~

~~—Existing law provides for the appropriation and registration of rights to use public waters in this State. (NRS 533.324-533.435) Section 3 also prohibits the Federal Government from owning water rights in this State and provides for the appropriation and registration of water rights claimed by the Federal~~

~~Government in the manner provided by statute for the appropriation of the right to use public waters.~~

~~Section 4 of this bill requires the State Land Registrar to provide for the appropriation and registration of grazing, logging, mineral development or any other beneficial use rights on public lands, including land to which the Federal Government claims ownership or rights. The State Land Registrar must award such rights to the first person who puts the land to beneficial use for grazing, logging, mineral development or another beneficial use, as applicable, and require a person to continue to use the land for such a beneficial use in order to retain the rights. Section 5 of this bill requires the State Land Registrar to publish notice each time a right to use public lands for grazing, logging, mineral development or any other beneficial use becomes available, and section 6 of this bill authorizes a person to protest the appropriation and registration of such rights. Section 7 of this bill requires the State Land Registrar to hold an annual auction to sell permits to use land for which rights have not been appropriated for grazing, logging, mineral development or any other beneficial use. Section 7 also provides that if the holder of such a permit puts the land to such a beneficial use for 4 consecutive years, he or she can appropriate the right to use the land for that beneficial use.~~

~~Section 8 of this bill requires the board of county commissioners of each county to impose a tax on the profits gained through the beneficial use of public lands.]~~

Under existing law, the Legislature has declared that the public policy of this State is to continue to seek the acquisition of lands retained by the Federal Government within the borders of this State. (NRS 321.00051) Section 11 of this bill expands that public policy to include: (1) support for an owner of private property in this State to use any resources located on that private property; (2) support for the members of the general public in this State to access and use any public lands in this State for certain recreational activities; and (3) support for the residents of this State to use any public lands in this State in a manner which ensures multiple uses of those public lands for those residents.

Existing law sets forth the general powers and duties of sheriffs and their deputies in this State. (NRS 248.090-248.250) Section 12 of this bill authorizes the sheriff of any county in this State to enter into an agreement with certain federal agencies pursuant to which the sheriff and his or her deputies are primarily responsible for the exercise of law enforcement authority on land managed by those federal agencies if the agreement: (1) requires the payment of fair compensation to the sheriff for exercising law enforcement authority based on federal statutes and regulations; and (2) provides that the federal agency recognizes the sheriff as the primary law enforcement authority on the land managed by the federal agency. Section 13 of this bill provides that the sheriffs and their deputies are the primary law enforcement officers of the unincorporated areas of their respective counties.

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

Section 1. ~~[Chapter 321 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, "public lands" means all lands within the exterior boundaries of the State of Nevada except lands:~~

- ~~1. To which title is held by any private person or entity;~~
- ~~2. To which title is held by the State of Nevada, any of its local governments or the Nevada System of Higher Education;~~
- ~~3. To which title has been acquired by the Federal Government pursuant to section 3 of this act; or~~
- ~~4. Which are held in trust for Indian purposes or are Indian reservations.] (Deleted by amendment.)~~

Sec. 3. ~~[1. Notwithstanding any other provision of law, the Federal Government shall not own land within the borders of this State unless:~~

- ~~(a) The Federal Government provides consideration to this State;~~
- ~~(b) The Legislature cedes jurisdiction over the land to the Federal Government pursuant to NRS 328.065 to 328.135, inclusive;~~
- ~~(c) The Federal Government uses the land for purposes authorized by Clause 17 of Section 8 of Article I of the Constitution of the United States; and~~

~~(d) The Federal Government records the deed to the land with the county recorder in the county in which the land is located.~~

~~2. Except as otherwise provided in subsection 1, the Federal Government shall not own rights to use land or water, post signs on any land or dispose of, lease, issue permits for use of, collect fees relating to, prohibit or restrict the use of or enter into any contract relating to land or water within the borders of this State for any purpose.~~

~~3. Any land or water or rights to use land or water to which the Federal Government claims ownership in violation of this section are the common property of the citizens of this State and the right to put such land to beneficial use may be appropriated as provided in the regulations adopted pursuant to section 4 of this act. The right to put such water to beneficial use may be appropriated in the manner prescribed by NRS 533.324 to 533.435, inclusive.~~

~~4. Until equivalent measures are enacted by the State of Nevada, the rights and privileges of the people of the State of Nevada under the National Forest Reserve Transfer Act (16 U.S.C. §§ 471 et seq.), the General Mining Laws (30 U.S.C. §§ 21 et seq.), the Homestead Act (43 U.S.C. §§ 161 et seq.), the Taylor Grazing Act (43 U.S.C. §§ 315 et seq.), the Desert Land Act (43 U.S.C. §§ 321 et seq.), the Carey Act (43 U.S.C. §§ 641 et seq.) and the Public Rangelands Improvement Act (43~~

~~U.S.C. §§ 1901 et seq.) and all rights of way and easements held by persons must be preserved under administration by the State.~~

~~— 5. Public lands in Nevada which have been administered by the United States under international treaties or interstate compacts must continue to be administered by the State in conformance with those treaties or compacts, as applicable.~~

~~— 6. The Federal Government and officials and agents thereof shall not enforce any federal law or regulation in this State except on land acquired pursuant to subsection 1.) (Deleted by amendment.)~~

Sec. 4. ~~{The State Land Registrar shall adopt regulations establishing conditions under which a person may appropriate the right to use public lands for grazing, logging, mineral development or any other beneficial use and the procedures for appropriating such rights. The regulations must:~~

~~— 1. Provide for the appropriation of grazing, logging, mineral development or other beneficial use rights on public lands.~~

~~— (a) To the first person who used the land for which the rights are claimed and who continues to use the land for that purpose; or~~

~~— (b) If the land for which the rights are claimed has not been used in the manner for which the rights are claimed, to the first person who claims the rights.~~

~~— 2. Establish procedures by which claims to such rights may be registered with the State Land Registrar. Each right must be identified by priority date, the manner in which the land is being used, the geographic boundaries of the land being used and the person who claims the right.~~

~~— 3. Provide for the appropriation of grazing rights on public lands to a person who owns stock watering rights on those public lands pursuant to chapter 532 of NRS and the designation of the priority date for such grazing rights as the recorded priority date for the stock watering rights held by the person.~~

~~— 4. Require the owner of grazing, logging, mineral development or other beneficial use rights for public lands to submit once each 5 years:~~

~~— (a) Any available proof that he or she is putting the land for which rights are held to beneficial use in the manner for which the rights are held. Such proof may include:~~

~~— (1) Proof that the person has paid the tax levied pursuant to section 8 of this act; or~~

~~— (2) Other proof acceptable to the State Land Registrar that the person is using the land in the manner for which the rights are held and that such use is beneficial to the person who holds the rights.~~

~~— (b) A report describing in detail the manner in which the person who holds the grazing, logging, mineral development or other beneficial use rights to public lands plans to use the land.~~

~~— 5. Prohibit the sale or lease of grazing, logging, mineral development or other beneficial use rights on public lands unless the person who holds such rights provides proof pursuant to subsection 4 that the person has put the~~

~~land for which rights are held to beneficial use in the manner for which the rights are held for 4 consecutive years.~~

~~6. Authorize another person to claim a right to use public land for grazing, logging, mineral development or any other beneficial use if the person who holds the right does not provide proof pursuant to subsection 4 that he or she has put the land for which rights are held to beneficial use in the manner for which the rights are held for at least 2 of the 5 years for which he or she is required to provide such proof.~~

~~7. Require each person who wishes to appropriate and register grazing, logging, mineral development or other beneficial use rights on public lands to publish the claim for 120 consecutive days.~~

~~8. Provide for the appropriation and registration of a grazing, logging, mineral development or other beneficial use right if a protest is not filed pursuant to section 6 of this act during the 120 day period prescribed in subsection 7 and require each person who appropriates and registers such a right to record the right with the county recorder in the county in which the land is located.~~

~~9. Prohibit the Federal Government and any governmental entity from outside this State from registering grazing, logging, mineral development or other beneficial use rights on public lands pursuant to this section.~~ (Deleted by amendment.)

Sec. 5. ~~{1. When a right to use public lands for logging, grazing, mineral development or any other beneficial use becomes available, the State Land Registrar shall publish notice of the availability of the right in a newspaper of general circulation in the county in which the land is located. A person claiming the right has 120 days after the date of publication to submit his or her claim to the State Land Registrar as provided in the regulations adopted pursuant to section 4 of this act.~~

~~2. If a right to use public lands for logging, grazing, mineral development or any other beneficial use has not been appropriated and registered within 120 days after the date on which notice of the availability of the right has been published pursuant to subsection 1, the State Land Registrar shall publish a second notice of the availability of the right in a newspaper of general circulation in the county in which the land is located. A person claiming the right has 60 days after the date of publication to submit his or her claim to the State Land Registrar as provided in the regulations adopted pursuant to section 4 of this act.~~ (Deleted by amendment.)

Sec. 6. ~~{1. Any person who objects to the availability of the right to use public land for logging, grazing, mineral development or any other beneficial use during the period prescribed in subsection 1 or 2 of section 5 of this act may file a protest with the State Land Registrar, and the State Land Registrar shall make a determination of the validity of the protest. If the State Land Registrar determines that the right should not be available,~~

~~he or she shall publish in a newspaper of general circulation in the county in which the land is located notice that the land is no longer available.~~

~~—2. Any person who objects to the appropriation of the right to use public land for logging, grazing, mineral development or any other beneficial use by the claimant during the period prescribed in subsection 7 of section 4 of this act may file a protest with the State Land Registrar, and the State Land Registrar shall make a determination of the validity of the protest. If the State Land Registrar determines that another person should be awarded the right or that the claimant should not be awarded the right for any other reason, the State Land Registrar shall refuse to register the right.~~

~~—3. A person aggrieved by a decision of the State Land Registrar concerning a protest filed pursuant to this section may appeal the decision in the manner prescribed in NRS 321.5987.~~

~~—4. The Attorney General may initiate or defend any action commenced in any court to carry out or enforce the provisions of sections 2 to 8, inclusive, of this act or seek appropriate judicial relief to protect the interests of the State or the people of the State in the public lands. (Deleted by amendment.)~~

Sec. 7. ~~{1. If the right to use public land for logging, grazing, mineral development or any other beneficial use is not appropriated and registered in the periods prescribed in section 5 of this act, the right becomes the common property of the citizens of this State. The State Land Registrar shall hold an annual auction of permits to use public lands for grazing, logging, mineral development or any other beneficial use. Such permits must be sold to the highest bidder for a price not lower than \$500. The proceeds from the sale of such permits must be deposited in the Revolving Account for Land Management and used by the State Land Registrar for the administrative costs of registering rights appropriated as provided in the regulations adopted pursuant to section 4 of this act and auctioning permits pursuant to this section.~~

~~—2. If a person who holds a permit to use public lands purchased at an auction provides proof to the State Land Registrar that he or she has put the land to beneficial use for 4 consecutive years in the manner prescribed in subsection 4 of section 4 of this act and the regulations adopted pursuant thereto, the person may appropriate and register the right to use the land as provided in the regulations adopted pursuant to section 4 of this act. (Deleted by amendment.)~~

Sec. 8. ~~{1. The board of county commissioners of each county shall, by ordinance, impose a tax on profits earned from beneficial use of public lands authorized pursuant to rights appropriated and registered as provided in section 4 of this act or a permit purchased as provided in section 7 of this act. The ordinance imposing the tax must provide the:~~

~~—(a) Rate or rates of the tax;~~

~~—(b) Procedure for collection of the tax; and~~

~~—(c) Rate of interest that will be charged on late payments.~~

~~2. The proceeds of the tax levied pursuant to this section:~~
~~(a) Must be deposited in the county general fund and may be used by the board of county commissioners for any lawful purpose; and~~
~~(b) Are exempt from the limitation imposed by NRS 354.59811 and may be excluded in determining the allowed revenue from taxes ad valorem for the county.~~ (Deleted by amendment.)

Sec. 9. ~~NRS 321.007 is hereby amended to read as follows:~~

~~321.007 1. Except as otherwise provided in subsection 5, NRS 321.008, 322.061, 322.063, 322.065 or 322.075, or section 4 or 7 of this act, except as otherwise required by federal law, except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or leased to a state or local governmental entity, except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS and except for land that is sold or leased pursuant to an agreement entered into pursuant to NRS 277.080 to 277.170, inclusive, when offering any land for sale or lease, the State Land Registrar shall:~~

~~(a) Except as otherwise provided in this paragraph, obtain two independent appraisals of the land before selling or leasing it. If the Interim Finance Committee grants its approval after discussion of the fair market value of the land, one independent appraisal of the land is sufficient before selling or leasing it. The appraisal or appraisals, as applicable, must have been prepared not more than 6 months before the date on which the land is offered for sale or lease.~~

~~(b) Notwithstanding the provisions of chapter 333 of NRS, select the one independent appraiser or two independent appraisers, as applicable, from the list of appraisers established pursuant to subsection 2.~~

~~(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the State Land Registrar as to the qualifications of an appraiser is conclusive.~~

~~2. The State Land Registrar shall adopt regulations for the procedures for creating or amending a list of appraisers qualified to conduct appraisals of land offered for sale or lease by the State Land Registrar. The list must:~~

~~(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the land that may be appraised; and~~

~~(b) Be organized at random and rotated from time to time.~~

~~3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the owner of the land or the owner of an adjoining property.~~

~~4. An appraiser shall not perform an appraisal on any land offered for sale or lease by the State Land Registrar if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the land or an adjoining property.~~

~~5. If a lease of land is for residential property and the term of the lease is 1 year or less, the State Land Registrar shall obtain an analysis of the market~~

~~value of similar rental properties prepared by a licensed real estate broker or salesperson when offering such a property for lease.~~

~~6. If land is sold or leased in violation of the provisions of this section:~~

~~(a) The sale or lease is void; and~~

~~(b) Any change to an ordinance or law governing the zoning or use of the land is void if the change takes place within 5 years after the date of the void sale or lease.} (Deleted by amendment.)~~

~~Sec. 10. [NRS 321.335 is hereby amended to read as follows:~~

~~321.335 1. Except as otherwise provided in NRS 321.008, 321.125, 322.061, 322.063, 322.065 or 322.075, or section 4 or 7 of this act, except as otherwise required by federal law, except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or leased to a state or local governmental entity, except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS and except for an agreement entered into pursuant to the provisions of NRS 277.080 to 277.170, inclusive, or a lease of residential property with a term of 1 year or less, after April 1, 1957, all sales or leases of any lands that the Division is required to hold pursuant to NRS 321.001, including lands subject to contracts of sale that have been forfeited, are governed by the provisions of this section.~~

~~2. Whenever the State Land Registrar deems it to be in the best interests of the State of Nevada that any lands owned by the State and not used or set apart for public purposes be sold or leased, the State Land Registrar may, with the approval of the State Board of Examiners and the Interim Finance Committee, cause those lands to be sold or leased upon sealed bids, or oral offer after the opening of sealed bids for cash or pursuant to a contract of sale or lease, at a price not less than the highest appraised value for the lands plus the costs of appraisal and publication of notice of sale or lease.~~

~~3. Before offering any land for sale or lease, the State Land Registrar shall comply with the provisions of NRS 321.007.~~

~~4. After complying with the provisions of NRS 321.007, the State Land Registrar shall cause a notice of sale or lease to be published once a week for 4 consecutive weeks in a newspaper of general circulation published in the county where the land to be sold or leased is situated, and in such other newspapers as the State Land Registrar deems appropriate. If there is no newspaper published in the county where the land to be sold or leased is situated, the notice must be so published in a newspaper published in this State having a general circulation in the county where the land is situated.~~

~~5. The notice must contain:~~

~~(a) A description of the land to be sold or leased;~~

~~(b) A statement of the terms of sale or lease;~~

~~(c) A statement that the land will be sold pursuant to subsection 6; and~~

~~(d) The place where the sealed bids will be accepted, the first and last days on which the sealed bids will be accepted, and the time when and place where~~

~~the sealed bids will be opened and oral offers submitted pursuant to subsection 6 will be accepted.~~

~~6. At the time and place fixed in the notice published pursuant to subsection 4, all sealed bids which have been received must, in public session, be opened, examined and declared by the State Land Registrar. Of the proposals submitted which conform to all terms and conditions specified in the notice published pursuant to subsection 4 and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral offer is accepted or the State Land Registrar rejects all bids and offers. Before finally accepting any written bid, the State Land Registrar shall call for oral offers. If, upon the call for oral offers, any responsible person offers to buy or lease the land upon the terms and conditions specified in the notice, for a price exceeding by at least 5 percent the highest written bid, then the highest oral offer which is made by a responsible person must be finally accepted.~~

~~7. The State Land Registrar may reject any bid or oral offer to purchase or lease submitted pursuant to subsection 6, if the State Land Registrar deems the bid or offer to be:~~

~~(a) Contrary to the public interest.~~

~~(b) For a lesser amount than is reasonable for the land involved.~~

~~(c) On lands which it may be more beneficial for the State to reserve.~~

~~(d) On lands which are requested by the State of Nevada or any department, agency or institution thereof.~~

~~8. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of sale specified in the notice of sale, the State Land Registrar shall convey title by quitclaim or cause a patent to be issued as provided in NRS 221.320 and 321.330.~~

~~9. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of lease specified in the notice of lease, the State Land Registrar shall enter into a lease agreement with the person submitting the accepted bid or oral offer pursuant to the terms of lease specified in the notice of lease.~~

~~10. The State Land Registrar may require any person requesting that state land be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the State Land Registrar in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.~~

~~11. If land that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the land, the State Land Registrar may offer the land for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the land, the State Land Registrar must, as applicable, obtain a new appraisal or new appraisals of the land~~

~~pursuant to the provisions of NRS 321.007 before offering the land for sale or lease a second time. If land that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the land, the State Land Registrar may list the land for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the land or an adjoining property.]~~
(Deleted by amendment.)

Sec. 11. NRS 321.00051 is hereby amended to read as follows:

321.00051 The Legislature hereby declares that the public policy of this State is ~~to~~ :

1. To continue to seek the acquisition of lands retained by the Federal Government within the borders of this State ~~[-]; and~~

2. To support the ability of:

(a) An owner of private property in this State to use any resources located on that private property, including, without limitation, the development of any subsurface rights;

(b) The members of the general public in this State to access and use any public lands in this State, including, without limitation, any public lands managed and controlled by the Federal Government in this State, for camping, fishing, hiking, hunting, rock climbing, trail riding and any other recreational activity; and

(c) The residents of this State to use those public lands in a manner which ensures multiple uses of those public lands for those residents.

Sec. 12. Chapter 248 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The sheriff of a county in this State may enter into an agreement with a federal agency pursuant to which the sheriff and his or her deputies are primarily responsible for the exercise of law enforcement authority on land managed by the federal agency, if the agreement:

(a) Requires the payment of fair compensation to the sheriff for exercising law enforcement authority based on federal statutes and regulations on the land managed by the federal agency; and

(b) Provides that the federal agency recognizes the sheriff as the primary law enforcement authority on the land managed by the federal agency.

2. As used in this section:

(a) "Exercising law enforcement authority" and "exercise of law enforcement authority" means:

(1) To take any action to investigate, stop, serve process on, search, arrest, cite, book or incarcerate a person for a federal criminal violation when the action is based on a federal statute or regulation; or

(2) To gain access to or use the correctional or communication facilities and equipment of any state or local law enforcement agency.

(b) "Federal agency" means:

(1) The Bureau of Land Management;

(2) The Bureau of Reclamation;

(3) The National Park Service;

(4) The United States Fish and Wildlife Service; or

(5) The United States Forest Service.

Sec. 13. NRS 248.090 is hereby amended to read as follows:

248.090 **1.** Sheriffs and their deputies *are the primary law enforcement officers in the unincorporated areas of their respective counties. In a county within the jurisdiction of a metropolitan police department, the sheriff and his or her deputies are the primary law enforcement officers in the unincorporated areas of the county and in any incorporated city whose law enforcement agency has been merged into the metropolitan police department.*

2. Sheriffs and their deputies shall keep and preserve the peace in their respective counties, and quiet and suppress all affrays, riots and insurrections, for which purpose, and for the service of process in civil or criminal cases, and in apprehending or securing any person for felony, or breach of the peace, they may call upon the power of their county to aid in such arrest or in preserving the peace.

~~{Sec. 11.}~~ **Sec. 14.** This act becomes effective ~~on July 1, 2015.~~ upon passage and approval.

Assemblywoman Titus moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 445.

AN ACT relating to education; creating the Spending and Government Efficiency Commission for public education and the Nevada System of Higher Education; prescribing the membership and duties of the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill creates the Spending and Government Efficiency Commission for the system of K-12 public education and the Nevada System of Higher Education. The Commission is required to make periodic recommendations to the Governor identifying: (1) areas in which the public costs of public education and the Nevada System of Higher Education may be reduced; (2) areas in which increased efficiencies in public education and the Nevada System of Higher Education may be found; and (3) any means by which public education and the Nevada System of Higher Education may be improved.

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

Section 1. 1. There is hereby created the Spending and Government Efficiency Commission for the system of K-12 public education in this State and the Nevada System of Higher Education. The Commission consists of 12 members appointed as follows:

- (a) Six members appointed by the Governor;
- (b) Two members appointed by the Governor from a list of six recommendations provided by the Senate Majority leader;
- (c) Two members appointed by the Governor from a list of six recommendations provided by the Speaker of the Assembly;
- (d) One member appointed by the Governor from a list of three recommendations provided by the Senate Minority leader; and
- (e) One member appointed by the Governor from a list of three recommendations provided by the Assembly Minority Leader.

➡ To the extent practicable, in appointing members to the Commission, the Governor shall ensure that the membership reflects the ethnic, gender and geographic diversity of this State.

2. The Governor shall appoint the Chair of the Commission from among its members.

3. The members of the Commission must be persons with expertise and experience in the operation of a business. A member may not have a personal or professional conflict of interest that would prevent the member from fully and objectively discharging his or her duties. A member may not derive any financial benefit from the work of the Commission, other than the general benefit received by all residents of this State from increased efficiency in the system of K-12 public education in this State and the Nevada System of Higher Education.

4. Members of the Commission serve at the pleasure of the Governor.

5. Members of the Commission serve without salary or compensation for their travel or per diem expenses.

6. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Committee.

7. The Commission shall comply with the provisions of chapter 241 of NRS and all meetings must be conducted in accordance with that chapter.

8. The Department of Education shall provide administrative support to the Commission.

9. The Commission may appoint committees or subcommittees of its members to study the system of K-12 public education in this State and the Nevada System of Higher Education and any means by which the system of K-12 public education in this State and the Nevada System of Higher Education may be improved.

10. The Commission shall, not less frequently than every 90 days, meet and:

- (a) Submit recommendations to the Governor:

(1) Identifying areas in which the public costs of the system of K-12 public education in this State and the Nevada System of Higher Education may be reduced;

(2) Identifying areas in which increased efficiencies in the system of K-12 public education in this State and the Nevada System of Higher Education may be found; and

(3) Identifying means by which the system of K-12 public education in this State and the Nevada System of Higher Education may be improved; or

(b) If the Commission does not have any recommendations, submit to the Governor a status report regarding the activities of the Commission for the period from the date on which the Commission last submitted to the Governor a status report or recommendations to the date on which the status report is submitted.

11. The Commission shall, on or before February 1, 2017, prepare and submit a final report to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature concerning its findings and recommendations.

Sec. 2. This act becomes effective on July 1, 2015, and expires by limitation on June 30, 2017.

Assemblywoman Woodbury moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 448.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 448.

AN ACT relating to education; establishing the Achievement School District within the Department of Education; authorizing certain underperforming schools to be converted to achievement charter schools sponsored by the ~~Executive Director of the~~ Achievement School District; prescribing requirements for the conversion of a public school to an achievement charter school and the operation of an achievement charter school; providing for the use of certain school buildings by an achievement charter school without compensation; authorizing a school district to provide services to an achievement charter school under certain circumstances; prescribing certain conditions of employment for a teacher at an achievement charter school; authorizing the conversion of an achievement charter school to a public school in a school district or a charter school; **revising provisions governing the use of school buildings owned by the board of trustees of the school district by a charter school;** making reassignment of the employees of an achievement charter school outside the scope of collective bargaining; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 17 of this bill creates the Achievement School District within the Department of Education, and **section 18** of this bill requires the Superintendent of Public Instruction to appoint an Executive Director as the chief of the Achievement School District. **Section 19** of this bill establishes the Account for the Achievement School District in the State General Fund.

Existing law establishes the statewide system of accountability for public schools. (NRS 385.3455-385.391) The statewide system of accountability provides for each public school to be rated based on the performance of the school and whether each public school meets the annual measurable objectives and performance targets. (NRS 385.3594) **Section 20** of this bill requires the ~~[State Board of Education]~~ **Executive Director** to make a list of public schools that demonstrate unsatisfactory pupil achievement and school performance for consideration for conversion to achievement charter schools ~~and submit the list to the State Board of Education for approval.~~ The list must include ~~20~~ **20** percent of schools that meet certain criteria ~~and the State Board must approve for consideration at least 50 percent of the schools on the list.~~ **Section 20** authorizes the Executive Director to select any school ~~from this list~~ **approved by the State Board** for conversion to an achievement charter school ~~after:~~ **(1) considering data concerning pupil achievement and school performance for the school; (2) considering input from parents of pupils enrolled at the school and other members of the community in which the school is located; and (3) consulting with the board of trustees of the school district in which the school is located.**

Existing law prohibits the conversion of an existing public school to a charter school. (NRS 386.505, 386.506) **Sections 11 and 23** of this bill provide that these provisions do not apply to an achievement charter school, thereby allowing the conversion of an existing public school to an achievement charter school.

Section 21 of this bill requires the Executive Director of the Achievement School District to ~~evaluate~~ applications and enter into a contract with a charter management organization, educational management organization or other person to operate an achievement charter school. ~~Section 21 also requires the Department to adopt regulations prescribing the process for applying to operate an achievement charter school, which must allow for certain applicants to submit one application to operate more than one achievement charter school.~~ **Section 21.5** of this bill provides that the **Achievement School District is deemed the sponsor** ~~of an~~ achievement charter school ~~and~~ **(2) requires the operator of an achievement charter school to** appoint a governing body of the achievement charter school ~~which~~ **Section 21.5 provides that the governing body** may consist of any persons chosen by the ~~[Executive Director]~~ **operator of the achievement charter school, with certain restrictions.** **Section 22** of this bill requires the ~~[governing body]~~ **principal** of an achievement charter school to determine whether to offer employment at the achievement charter school to the former

employees of the public school. Any such employees who are not offered employment at the achievement charter school must be reassigned to another public school in the district. **Section 22** also requires the board of trustees of a school district to allow an achievement charter school to operate in the building in which the school was located before conversion to an achievement charter school without compensation and continue to pay capital expenses for the building. The achievement charter school is required to pay for maintenance and operation of the building. **Section 22** also provides that any ~~child~~ **pupil** who was enrolled in a school before conversion to an achievement charter school must be ~~given priority above all other students for enrollment~~ **enrolled** in the achievement charter school ~~if~~ **upon request. Finally, section 22 limits the amount of loans, advances or other monetary charges that the governing body of an achievement charter school may authorize to be paid to the operator of the achievement charter school.** **Section 61** of this bill makes the right of a school district to reassign employees who are not retained by an achievement charter school outside the scope of collective bargaining.

Section 22.5 of this bill enacts provisions necessary for an achievement charter school to be able to receive money available from federal and state categorical grant programs.

Sections 3-8 and 23 of this bill require an achievement charter school to participate in the statewide system of accountability for public schools.

Existing law: (1) establishes requirements concerning the availability of certain information concerning charter schools and the operation of a charter school; (2) prohibits a member of the board of trustees of a school district or employee of a school district to solicit gifts or payments from a governing body or employee of a charter school; (3) prohibits the board of trustees of a school district from interfering with the operation of a charter school; (4) prescribes the manner in which money will be apportioned to and paid by a charter school; (5) establishes requirements concerning hiring of personnel at a charter school; (6) requires certain information to be reported by the governing body and sponsor of a charter school; and (7) authorizes a charter school to finance improvements through the issuance of bonds. (NRS 386.545, 386.547, 386.550, 386.553, 386.555, 386.563-386.573, 386.582-386.593 and 386.598-386.649) **Section 23** of this bill makes these provisions applicable to an achievement charter school. **Section 23** also allows the governing body of an achievement charter school to obtain a waiver of certain requirements concerning the school calendar, testing, curriculum, enrollment, distance education and staffing.

Existing law authorizes: (1) a charter school that meets certain requirements to apply to the Department for money for facilities; (2) a charter school to take certain actions to expand its facilities; and (3) a pupil at a charter school to participate in classes or extracurricular activities at a public school in a school district. (NRS 386.5515, 386.560, 386.595) **Sections 24-26** of this bill enacts similar provisions applicable to achievement charter schools. **Section 25** also

requires the board of trustees of a school district in which an achievement charter school is located to provide facilities, other than the school building in which the achievement charter school operates, to the achievement charter school or perform certain services to an achievement charter school for compensation upon the request of the Executive Director.

Sections 27, 31 and 32 of this bill prescribe conditions for employment at an achievement charter school. **Sections 28, 30 and 31** of this bill require the board of trustees of a school district to grant a leave of absence of 6 years to a teacher who wishes to accept or continue employment at an achievement charter school and prescribe requirements concerning benefits and tenure of a teacher who takes such a leave of absence.

Section 33 of this bill allows an achievement charter school that has demonstrated adequate improvement in pupil achievement and school performance to: (1) convert back to a public school under the governance of the board of trustees of the school district in which the school is located; (2) apply to an entity for sponsorship as a charter school and become a charter school outside the Achievement School District; or (3) remain an achievement charter school for at least 6 more years. **Section 33** requires an achievement charter school that has not demonstrated adequate improvement to remain an achievement charter school for at least 6 more years, subject to review at least every 3 years thereafter. **Section 33** provides that if an achievement charter school converts back to a public school in a school district, the board of trustees of the school district must employ any teacher, administrator or paraprofessional who wishes to continue at the school. **Section 34** of this bill requires the Department to adopt regulations to carry out the provisions governing achievement charter schools. **Sections 36-38** of this bill exempt an achievement charter school from certain prohibitions on converting an existing public school into a charter school.

Existing law authorizes a charter school to use school buildings owned by the school district in which the charter school is located only upon approval of the board of trustees of the school district and during times that are not regular school hours. (NRS 386.560) Section 39.5 of this bill removes the limitation on the use of such buildings during regular school hours, but still requires such use to be approved by the board of trustees of the school district.

Sections 1, 2, 9, 11-16, 35, 39-60, 62-64 and 69 of this bill make conforming changes.

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

Section 1. NRS 385.005 is hereby amended to read as follows:

385.005 1. The Legislature reaffirms its intent that public education in the State of Nevada is essentially a matter for local control by local school districts. The provisions of this title are intended to reserve to the boards of trustees of local school districts within this state such rights and powers as are

necessary to maintain control of the education of the children within their respective districts. These rights and powers may only be limited by other specific provisions of law.

2. The responsibility of establishing a statewide policy of integration or desegregation of public schools is reserved to the Legislature. The responsibility for establishing a local policy of integration or desegregation of public schools consistent with the statewide policy established by the Legislature is delegated to the respective boards of trustees of local school districts and to the governing body of each charter school.

3. The State Board shall, and the State Public Charter School Authority, **the Achievement School District**, each board of trustees of a local school district, the governing body of each charter school and any other school officer may, advise the Legislature at each regular session of any recommended legislative action to ensure high standards of equality of educational opportunity for all children in the State of Nevada.

Sec. 2. NRS 385.007 is hereby amended to read as follows:

385.007 As used in this title, unless the context otherwise requires:

1. ~~["Charter school" means a public school that is formed pursuant to the provisions of NRS 386.490 to 386.649, inclusive.]~~ **"Achievement charter school" means a public school operated by a charter management organization, as defined in section 13 of this act, an educational management organization, as defined in section 14 of this act, or other person pursuant to a contract with the Achievement School District pursuant to section 21 of this act and subject to the provisions of sections 12 to 34, inclusive, of this act.**

2. "Department" means the Department of Education.

3. "Homeschooled child" means a child who receives instruction at home and who is exempt from compulsory attendance pursuant to NRS 392.070.

4. "Limited English proficient" has the meaning ascribed to it in 20 U.S.C. § 7801(25).

5. "Public schools" means all kindergartens and elementary schools, junior high schools and middle schools, high schools, charter schools and any other schools, classes and educational programs which receive their support through public taxation and, except for charter schools, whose textbooks and courses of study are under the control of the State Board.

6. "State Board" means the State Board of Education.

7. "University school for profoundly gifted pupils" has the meaning ascribed to it in NRS 392A.040.

Sec. 3. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils

enrolled in charter schools sponsored by the school district. The board of trustees of each school district shall report the information required by NRS 385.347 to 385.3495, inclusive, for each charter school sponsored by the school district. The information for charter schools must be reported separately.

2. The board of trustees of each school district shall, on or before September 30 of each year, prepare a single annual report of accountability concerning the educational goals and objectives of the school district, the information prescribed by NRS 385.347 to 385.3495, inclusive, and such other information as is directed by the Superintendent of Public Instruction. A separate reporting for a group of pupils must not be made pursuant to NRS 385.347 to 385.3495, inclusive, if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The Department shall use the mechanism approved by the United States Department of Education for the statewide system of accountability for public schools for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The State Public Charter School Authority, *the Achievement School District* and each college or university within the Nevada System of Higher Education that sponsors a charter school shall, on or before September 30 of each year, prepare an annual report of accountability of the charter schools sponsored by the State Public Charter School Authority, *Achievement School District* or institution, as applicable, concerning the accountability information prescribed by the Department pursuant to this section. The Department, in consultation with the State Public Charter School Authority, *the Achievement School District* and each college or university within the Nevada System of Higher Education that sponsors a charter school, shall prescribe by regulation the information that must be prepared by the State Public Charter School Authority, *Achievement School District* and institution, as applicable, which must include, without limitation, the information contained in subsection 2 and NRS 385.347 to 385.3495, inclusive, as applicable to charter schools. The Department shall provide for public dissemination of the annual report of accountability prepared pursuant to this section by posting a copy of the report on the Internet website maintained by the Department.

4. The annual report of accountability prepared pursuant to this section must be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

5. The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to this section and provide the forms to the respective school districts, the State Public Charter School Authority, *the Achievement School District* and each college or university within the Nevada System of Higher Education that sponsors a charter school.

(b) Provide statistical information and technical assistance to the school districts, the State Public Charter School Authority , ***the Achievement School District*** and each college or university within the Nevada System of Higher Education that sponsors a charter school to ensure that the reports provide comparable information with respect to each school in each district, each charter school and among the districts and charter schools throughout this State.

(c) Consult with a representative of the:

- (1) Nevada State Education Association;
- (2) Nevada Association of School Boards;
- (3) Nevada Association of School Administrators;
- (4) Nevada Parent Teacher Association;
- (5) Budget Division of the Department of Administration;
- (6) Legislative Counsel Bureau; and
- (7) Charter School Association of Nevada,

↪ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

6. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. On or before September 30 of each year:

(a) The board of trustees of each school district, the State Public Charter School Authority , ***the Achievement School District*** and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide written notice that the report required pursuant to this section is available on the Internet website maintained by the school district, State Public Charter School Authority , ***Achievement School District*** or institution, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

- (1) Governor;
- (2) State Board;
- (3) Department;
- (4) Committee;
- (5) Bureau; and

(6) The Attorney General, with a specific reference to the information that is reported pursuant to paragraph (e) of subsection 1 of NRS 385.3483.

(b) The board of trustees of each school district, the State Public Charter School Authority , ***the Achievement School District*** and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide for public dissemination of the annual report of accountability prepared pursuant to this section by posting a copy of the report on the Internet website maintained by the school district, the State Public Charter School Authority , ***the Achievement School District*** or the institution,

if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school sponsored by the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school sponsored by the district. If the State Public Charter School Authority, ***the Achievement School District*** or the institution does not maintain a website, the State Public Charter School Authority, ***the Achievement School District*** or the institution, as applicable, shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each charter school it sponsors and the parents and guardians of pupils enrolled in each charter school it sponsors.

8. Upon the request of the Governor, the Attorney General, an entity described in paragraph (a) of subsection 7 or a member of the general public, the board of trustees of a school district, the State Public Charter School Authority, ***the Achievement School District*** or a college or university within the Nevada System of Higher Education that sponsors a charter school, as applicable, shall provide a portion or portions of the report required pursuant to this section.

Sec. 4. NRS 385.3481 is hereby amended to read as follows:

385.3481 1. The annual report of accountability prepared pursuant to NRS 385.347 must include information on the attendance, truancy and transiency of pupils, including, without limitation:

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

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

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

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

(c) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. For the purposes of this paragraph, a pupil is not transient if the pupil is transferred to a different school within the school

district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(d) The number of habitual truants reported for each school in the district and for the district as a whole, including, without limitation, the number who are:

(1) Reported to an attendance officer, a school police officer or a local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144;

(2) Referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144; and

(3) Referred for the imposition of administrative sanctions pursuant to paragraph (c) of subsection 2 of NRS 392.144.

2. On or before September 30 of each year:

(a) The board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required by paragraph (a) of subsection 1.

(b) The State Public Charter School Authority, *the Achievement School District* and each college or university within the Nevada System of Higher Education that sponsors a charter school shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of the attendance and truancy of pupils enrolled in the charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3 of NRS 385.347.

Sec. 5. NRS 385.3572 is hereby amended to read as follows:

385.3572 1. The State Board shall prepare a single annual report of accountability that includes, without limitation the information prescribed by NRS 385.3572 to 385.3592, inclusive.

2. A separate reporting for a group of pupils must not be made pursuant to this section and NRS 385.3572 to 385.3592, inclusive, if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The Department shall use the mechanism approved by the United States Department of Education for the statewide system of accountability for public schools for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

(a) Be prepared in a concise manner; and

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

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

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

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

- (1) Governor;
- (2) Committee;
- (3) Bureau;
- (4) Board of Regents of the University of Nevada;
- (5) Board of trustees of each school district;
- (6) Governing body of each charter school;
- (7) ***Executive Director of the Achievement School District***; and

~~[(7)]~~ (8) The Attorney General, with a specific reference to the information that is reported pursuant to paragraph (e) of subsection 1 of NRS 385.3584.

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

Sec. 6. NRS 385.3593 is hereby amended to read as follows:

385.3593 1. The State Board shall prepare a plan to improve the achievement of pupils enrolled in the public schools in this State. The plan:

(a) Must be prepared in consultation with:

- (1) Employees of the Department;
- (2) At least one employee of a school district in a county whose population is 100,000 or more, appointed by the Nevada Association of School Boards;

(3) At least one employee of a school district in a county whose population is less than 100,000, appointed by the Nevada Association of School Boards; and

(4) At least one representative of the Statewide Council for the Coordination of the Regional Training Programs created by NRS 391.516, appointed by the Council; and

(b) May be prepared in consultation with:

- (1) Representatives of institutions of higher education;
- (2) Representatives of regional educational laboratories;
- (3) Representatives of outside consultant groups;
- (4) Representatives of the regional training programs for the professional development of teachers and administrators created by NRS 391.512;
- (5) The Bureau; and
- (6) Other persons who the State Board determines are appropriate.

2. A plan to improve the achievement of pupils enrolled in public schools in this State must include:

(a) A review and analysis of the data upon which the report required pursuant to NRS 385.3572 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors common among the school districts or charter schools in this State, as revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as set forth in NRS 389.018.

(d) Strategies to improve the academic achievement of pupils enrolled in public schools in this State, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.550 and 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in the statewide system of accountability for public schools;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school districts;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at public schools in this State to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of the pupils enrolled in public schools in this State, as deemed appropriate by the State Board.

(e) Strategies designed to provide to the pupils enrolled in middle school, junior high school and high school, the teachers and counselors who provide instruction to those pupils, and the parents and guardians of those pupils information concerning:

(1) The requirements for admission to an institution of higher education and the opportunities for financial aid;

(2) The availability of Governor Guinn Millennium Scholarships pursuant to NRS 396.911 to 396.945, inclusive; and

(3) The need for a pupil to make informed decisions about his or her curriculum in middle school, junior high school and high school in preparation for success after graduation.

(f) An identification, by category, of the employees of the Department who are responsible for ensuring that each provision of the plan is carried out effectively.

(g) A timeline for carrying out the plan, including, without limitation:

(1) The rate of improvement and progress which must be attained annually in meeting the goals and benchmarks established by the State Board pursuant to subsection 3; and

(2) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(h) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(i) Strategies to improve the allocation of resources from this State, by program and by school district, in a manner that will improve the academic achievement of pupils. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the State Board and the Department to carry out the plan, including, without limitation, a budget for the overall cost of carrying out the plan.

(k) A summary of the effectiveness of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(l) A 5-year strategic plan which identifies the recurring issues in improving the achievement and proficiency of pupils in this State and which establishes strategic goals to address those issues. The 5-year strategic plan must be:

(1) Based upon the data from previous years which is collected by the Department for the plan developed pursuant to this section; and

(2) Designed to track the progress made in achieving the strategic goals established by the Department.

(m) Any additional plans addressing the achievement and proficiency of pupils adopted by the Department.

3. The State Board shall:

(a) In developing the plan to improve the achievement of pupils enrolled in public schools, establish clearly defined goals and benchmarks for improving the achievement of pupils, including, without limitation, goals for:

(1) Improving proficiency results in core academic subjects;

(2) Increasing the number of pupils enrolled in public middle schools and junior high schools, including, without limitation, charter schools, who enter public high schools with the skills necessary to succeed in high school;

(3) Improving the percentage of pupils who enroll in grade 9 and who graduate from a public high school, including, without limitation, a charter school, with a standard or higher diploma upon completion;

(4) Improving the performance of pupils on standardized college entrance examinations;

(5) Increasing the percentage of pupils enrolled in high schools who enter postsecondary educational institutions or who are career and workforce ready; and

(6) Reengaging disengaged youth who have dropped out of high school or who are at risk of dropping out of high school, including, without limitation, a mechanism for tracking and maintaining communication with those youth who have dropped out of school or who are at risk of doing so;

(b) Review the plan annually to evaluate the effectiveness of the plan;

(c) Examine the timeline for implementing the plan and each provision of the plan to determine whether the annual goals and benchmarks have been attained; and

(d) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that:

(1) The goals and benchmarks set forth in the plan are being attained in a timely manner; and

(2) The plan is designed to improve the academic achievement of pupils enrolled in public schools in this State.

4. On or before January 31 of each year, the State Board shall submit the plan or the revised plan, as applicable, to the:

(a) Governor;

(b) Committee;

(c) Bureau;

(d) Board of Regents of the University of Nevada;

(e) Council to Establish Academic Standards for Public Schools created by NRS 389.510;

(f) Board of trustees of each school district; ~~and~~

(g) Governing body of each charter school ~~;~~ **and**

(h) Executive Director of the Achievement School District.

Sec. 7. NRS 385.3613 is hereby amended to read as follows:

385.3613 1. On or before July 31 of each year, the Department shall determine whether each public school is meeting the annual measurable objectives and performance targets established pursuant to the statewide system of accountability for public schools.

2. The determination pursuant to subsection 1 for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the State Public Charter School Authority, **the Achievement School District** or ~~by~~ a college or university within the Nevada System of Higher Education, the Department shall make a determination for the charter school in consultation with the State Public Charter School Authority, **the Achievement School District** or the institution within the Nevada System of Higher Education that sponsors the charter school, as applicable. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a

full academic year. On or before July 31 of each year, the Department shall transmit:

(a) Except as otherwise provided in paragraph (b) , ~~for~~ (c) ~~by~~ or (d), the determination made for each public school to the board of trustees of the school district in which the public school is located.

(b) To the State Public Charter School Authority the determination made for each charter school that is sponsored by the State Public Charter School Authority.

(c) ***The determination made for the charter school to the Achievement School District if the charter school is sponsored by the Achievement School District.***

(d) The determination made for the charter school to the institution that sponsors the charter school if a charter school is sponsored by a college or university within the Nevada System of Higher Education.

3. If the number of pupils in a particular group who are enrolled in a public school is insufficient to yield statistically reliable information:

(a) The Department shall not determine that the school has failed to meet the performance targets established pursuant to the statewide system of accountability for public schools based solely upon that particular group.

(b) The pupils in such a group must be included in the overall count of pupils enrolled in the school who took the examinations.

↪ The Department shall use the mechanism approved by the United States Department of Education for the statewide system of accountability for public schools for determining the number of pupils that must be in a group for that group to yield statistically reliable information.

4. If an irregularity in testing administration or an irregularity in testing security occurs at a school and the irregularity invalidates the test scores of pupils, those test scores must be included in the scores of pupils reported for the school, the attendance of those pupils must be counted towards the total number of pupils who took the examinations and the pupils must be included in the total number of pupils who were required to take the examinations.

5. As used in this section:

(a) “Irregularity in testing administration” has the meaning ascribed to it in NRS 389.604.

(b) “Irregularity in testing security” has the meaning ascribed to it in NRS 389.608.

Sec. 8. NRS 385.366 is hereby amended to read as follows:

385.366 1. Based upon the information received from the Department pursuant to NRS 385.3613, the board of trustees of each school district shall, on or before August 15 of each year, issue a preliminary rating for each public school in the school district in accordance with the statewide system of accountability for public schools, excluding charter schools sponsored by the State Public Charter School Authority , ***the Achievement School District*** or ~~by~~ a college or university within the Nevada System of Higher Education. The board of trustees shall make preliminary ratings for all charter schools that

are sponsored by the board of trustees. The Department shall make preliminary ratings for all charter schools ~~that are~~ sponsored by the State Public Charter School Authority , **all charter schools sponsored by the Achievement School District** and all charter schools sponsored by a college or university within the Nevada System of Higher Education.

2. Before making a final rating for a school, the board of trustees of the school district or the Department, as applicable, shall provide the school an opportunity to review the data upon which the preliminary rating is based and to present evidence. If the school is a public school of the school district or a charter school sponsored by the board of trustees, the board of trustees of the school district shall, in consultation with the Department, make a final determination concerning the rating for the school on September 15. If the school is a charter school sponsored by the State Public Charter School Authority , **the Achievement School District** or ~~by~~ a college or university within the Nevada System of Higher Education, the Department shall make a final determination concerning the rating for the school on September 15.

3. On or before September 15 of each year, the Department shall provide written notice of the determinations made pursuant to NRS 385.3613 and the final ratings made pursuant to this section as follows:

(a) The determinations and final ratings made for all schools in this State to the:

- (1) Governor;
- (2) State Board;
- (3) Committee; and
- (4) Bureau.

(b) The determinations and final ratings made for all schools within a school district to the:

- (1) Superintendent of schools of the school district; and
- (2) Board of trustees of the school district.

(c) The determination and final rating made for each school to the principal of the school.

(d) The determination and final rating made for each charter school to the sponsor of the charter school.

Sec. 9. NRS 385.620 is hereby amended to read as follows:

385.620 The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement and family engagement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation, involvement and engagement of parents and families that is included in the annual report of accountability for each school district pursuant to NRS 385.3495 and similar information in the annual report of accountability prepared by the State Public Charter School Authority , **the Achievement School District** and a college or university within the Nevada System of

Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347;

3. Review any effective practices carried out in individual school districts to increase parental involvement and family engagement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and family engagement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents, legal guardians and families of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement and family engagement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents, legal guardians and families of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement and family engagement coordinator or a parental involvement and family engagement coordinator in each school district, or both;

9. Work in collaboration with the Office of Parental Involvement and Family Engagement created by NRS 385.630 to carry out the duties prescribed in NRS 385.635;

10. On or before July 1 of each year, submit a report to the Legislative Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and

11. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

Sec. 10. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 11 to 34, inclusive, of this act.

Sec. 11. *“Charter school” does not include an achievement charter school, except to the extent provided pursuant to section 23 of this act.*

Sec. 12. *As used in sections 12 to 34, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 13 to 16, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 13. *“Charter management organization” means a nonprofit corporation, organization or other entity that provides services relating to the operation and management of charter schools and achievement charter schools.*

Sec. 14. *“Educational management organization” means a for-profit corporation, business, organization or other entity that provides services*

relating to the operation and management of charter schools and achievement charter schools.

Sec. 15. "Executive Director" means the Executive Director of the Achievement School District created by section 17 of this act.

Sec. 16. "Public school" does not include a charter school or a university school for profoundly gifted pupils.

Sec. 17. 1. The Achievement School District is hereby created within the Department.

2. The Achievement School District may employ such persons as it deems necessary to carry out the provisions of sections 12 to 34, inclusive, of this act. The employees of the Achievement School District:

(a) Must be qualified to carry out the daily responsibilities of overseeing achievement charter schools in accordance with the provisions of sections 12 to 34, inclusive, of this act; and

(b) Are in the unclassified service of the State and serve at the pleasure of the Executive Director.

~~[3. The Achievement School District is hereby deemed a local educational agency for the purpose of directing the proportionate share of any money available from federal and state categorical grant programs to achievement charter schools that are eligible to receive such money. An achievement charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.~~

~~4. If an achievement charter school is eligible to receive special education program units, the Department must pay the special education program units directly to the achievement charter school.~~

~~5. As used in this section, "local educational agency" has the meaning ascribed to it in 20 U.S.C. § 7801(26)(A).]~~

Sec. 18. 1. The Superintendent of Public Instruction shall appoint an Executive Director of the Achievement School District. The Executive Director shall serve at the pleasure of the Superintendent of Public Instruction.

2. The Executive Director is the chief of the Achievement School District. The Executive Director has the powers and duties assigned by sections 12 to 34, inclusive, of this act, and any other applicable law or regulation and such other powers and duties as may be assigned by the Superintendent of Public Instruction.

3. The Executive Director shall develop policies and practices for the operation of the Achievement School District that are consistent with state laws and regulations governing achievement charter schools. Such policies and practices must include, without limitation, the manner in which the Achievement School District will maintain oversight of achievement charter schools.

Sec. 19. 1. The Account for the Achievement School District is hereby created in the State General Fund, to be administered by the Executive Director.

2. The interest and income earned on the money in the Account must be credited to the Account.

3. The money in the Account may be used only for the establishment and maintenance of the Achievement School District.

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 Executive Director and the Achievement School District may accept gifts, grants and bequests to carry out the responsibilities of the Achievement School District pursuant to sections 12 to 34, inclusive, of this act. Any money from gifts, grants and bequests must be deposited in the Account and may be expended in accordance with the terms and conditions of the gift, grant or bequest, or in accordance with this section.

6. Claims against the Account must be paid as other claims against the state are paid.

Sec. 20. 1. A public school is eligible for conversion to an achievement charter school if:

(a) Based upon the most recent annual report of the statewide system of accountability for public schools, the public school is an elementary school or middle school that was rated in the lowest 5 percent of elementary or middle schools in this State in pupil achievement and school performance for the most recent school year;

(b) The public school is a high school that had a graduation rate for the immediately preceding school year of less than 60 percent; or

(c) Pupil achievement and school performance at the public school is unsatisfactory as determined by the Department pursuant to the criteria established by regulation of the Department.

2. Each year, the ~~[State Board]~~ Executive Director shall ~~[make]~~ submit a list of not less than ~~[10]~~ 20 percent of the public schools that are eligible for conversion to an achievement charter school pursuant to subsection 1 to the State Board for consideration by the Executive Director pursuant to subsection 3, its approval. Within 30 days after the list is submitted, the State Board shall approve at least 50 percent of the schools on the list.

3. The Executive Director may select any public school ~~[that is included on the list provided]~~ approved for consideration by the State Board pursuant to subsection 2 for conversion to an achievement charter school. Before selecting a public school for conversion to an achievement charter school, the Executive Director must:

(a) Consider available data concerning pupil achievement and school performance for the public school, including, without limitation, data from the statewide system of accountability for public schools and data maintained by the board of trustees of the school district in which the public school is located;

(b) Solicit, in accordance with any regulations adopted pursuant to section 34 of this act, and consider input from parents of pupils enrolled at

the public school and other members of the community in which the public school is located; and

(c) Consult with the board of trustees of the school district in which the public school is located.

4. The Executive Director shall notify a public school ~~so designated~~ selected for conversion to an achievement charter school and the school district in which the public school is located not later than 60 days after making the selection.

Sec. 21. 1. For each public school selected for conversion to an achievement charter school pursuant to section 20 of this act, the Executive Director shall:

(a) ~~Evaluate~~ Solicit applications from educational management organizations, charter management organizations and other persons to operate the achievement charter school.

(b) ~~Approve applications~~ Provide information to parents of pupils enrolled at the public school concerning programs of instruction that applicants to operate the achievement charter school have proposed to offer at the achievement charter school and, in accordance with any regulations adopted pursuant to section 34 of this act, solicit the input of such parents concerning the needs of such pupils and the ability of the proposed programs of instruction to address those needs.

(c) Taking into consideration the input provided pursuant to paragraph (b), evaluate the applications submitted to operate the achievement charter school and approve the application that the Executive Director determines ~~are~~ is high quality, ~~meet~~ meets the identified educational needs of pupils and ~~are~~ is likely to improve pupil achievement and school performance.

~~(c)~~ (d) Negotiate and enter into a contract to operate the achievement charter school directly with the charter management organization, educational management organization or other person whose application is approved pursuant to paragraph ~~(b)~~ (c). A contract to operate an achievement charter school must be for a term of 6 years. The term of the contract begins on the first day on which the contract provides that the educational management organization, charter management organization or other person is responsible for the operation of the achievement charter school.

~~(d)~~ (e) Monitor the performance and compliance of each achievement charter school.

2. ~~After a contract is entered into pursuant to paragraph (c) of subsection 1, the Achievement School District shall be deemed the sponsor of the achievement charter school. The Executive Director shall appoint the governing body of the achievement charter school, consisting of such persons as are deemed appropriate by the Executive Director and may include, without limitation, the person to whom a contract is awarded to operate the achievement charter school. The governing body has such~~

~~powers and duties as assigned pursuant to sections 12 to 34, inclusive, of this act, any other applicable law or regulation and the Executive Director.~~

~~3. The Executive Director may terminate a contract to operate an achievement charter school before the expiration of the contract under circumstances prescribed by regulation of the Department.~~ The Department shall adopt regulations that prescribe the process by which a charter management organization, educational management organization or other person may apply to operate an achievement charter school. Such regulations must, without limitation:

(a) Require each application to include a plan to involve and engage the parents and families of pupils enrolled at the achievement charter school; and

(b) Authorize a charter management organization, educational management organization or other person to submit one application to operate more than one achievement charter school.

3. If a charter management organization, educational management organization or other person applies to operate more than one achievement charter school pursuant to paragraph (b) of subsection 2, the Department must not approve the application unless any charter school currently operated by the charter management organization, educational management organization or other person meets specific criteria for pupil achievement and school performance established for each such school by the Department.

Sec. 21.5. 1. After a contract is entered into pursuant to paragraph (d) of subsection 1 of section 21 of this act, the Achievement School District shall be deemed the sponsor of the achievement charter school for all purposes, including, without limitation, receipt of the sponsorship fee prescribed pursuant to NRS 386.570.

2. The charter management organization, educational management organization or other person with whom the Executive Director enters into a contract to operate the achievement charter school shall appoint the governing body of the achievement charter school, consisting of such persons as deemed appropriate by the charter management organization, educational management organization or other person and who meet the requirements set forth in subsection 3. The governing body has such powers and duties as assigned pursuant to sections 12 to 34, inclusive, of this act and any other applicable law or regulation and by the Executive Director.

3. At least two members of the governing body of an achievement charter school must reside in the community in which the achievement charter school is located. A person who is employed by the charter management organization, educational management organization or other person with whom the Executive Director has entered into a contract to operate the achievement charter school may not serve as a voting member of the governing body of the achievement charter school.

4. The Executive Director may terminate a contract to operate an achievement charter school before the expiration of the contract under circumstances prescribed by regulation of the Department.

Sec. 22. 1. After the governing body of an achievement charter school is appointed pursuant to section ~~21.5~~ 21.5 of this act, the governing body shall select the principal of the achievement charter school. The principal shall review each employee of the achievement charter school to determine whether to offer the employee a position in the achievement charter school based on the needs of the school and the ability of the employee to meet effectively those needs. The board of trustees of the school district in which the achievement charter school is located shall reassign any employee who is not offered a position in the achievement charter school or does not accept such a position ~~to another public school within the school district,~~ in accordance with any collective bargaining agreement negotiated pursuant to chapter 288 of NRS.

2. An achievement charter school must continue to operate in the same building in which the school operated before being converted to an achievement charter school. The board of trustees of the school district in which the school is located must provide such use of the building without compensation. While the school is operated as an achievement charter school, the governing body of the achievement charter school shall pay all costs related to the maintenance and operation of the building and the board of trustees shall pay all capital expenses.

3. Any ~~child~~ pupil who was enrolled at the school before it was converted to an achievement charter school must be ~~given priority in enrollment~~ enrolled in the achievement charter school ~~over all other pupils,~~ upon the request of the parent or guardian of the pupil.

4. The governing body of an achievement charter school shall not authorize the payment of loans, advances or other monetary charges to the charter management organization, educational management organization or other person with whom the Executive Director has entered into a contract to operate the achievement charter school which are greater than 15 percent of the total expected funding to be received by the achievement charter school from the State Distributive School Account.

Sec. 22.5. 1. Each achievement charter school is hereby deemed a local educational agency for the purpose of receiving any money available from federal and state categorical grant programs. An achievement charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.

2. If an achievement charter school is eligible to receive special education program units, the Department must pay the special education program units directly to the achievement charter school.

3. As used in this section, "local educational agency" has the meaning ascribed to it in 20 U.S.C. § 7801(26)(A)

Sec. 23. 1. *Except as otherwise provided in this section, the provisions of NRS 386.490 to 386.649, inclusive, and section 11 of this act are not applicable to an achievement charter school.*

2. *The provisions of NRS 386.545, 386.547, 386.550, 386.553, 386.555, 386.563 to 386.573, inclusive, 386.582 to 386.588, inclusive, 386.590, 386.593 and 386.598 to 386.649, inclusive, apply to an achievement charter school.*

3. *The governing body of an achievement charter school may submit a written request to the Superintendent of Public Instruction for a waiver from the requirements of paragraphs (f) to (k), inclusive, of subsection 1 of NRS 386.550 or subsection 2 of that section or, except with regard to a program supported with Title I money, NRS 386.590. The Executive Director may grant such a request if the governing body demonstrates to the satisfaction of the Superintendent of Public Instruction that circumstances justify the waiver and that granting the waiver is in the best interest of the pupils enrolled in the achievement charter school.*

Sec. 24. 1. *To the extent money is available from legislative appropriation or otherwise, an achievement charter school may apply to the Department for money for facilities if:*

(a) *The achievement charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;*

(b) *The Executive Director has determined that the finances of the achievement charter school are being managed in a prudent manner;*

(c) *The achievement charter school has met or exceeded the annual measurable objectives and performance targets established pursuant to the statewide system of accountability for public schools or has demonstrated improvement in the achievement of pupils enrolled in the achievement charter school, as indicated by those annual measurable objectives and performance targets, for the majority of the years of its operation; and*

(d) *At least 75 percent of the pupils enrolled in grade 12 in the achievement charter school in the immediately preceding school year have satisfied the criteria prescribed by the State Board pursuant to NRS 389.805, if the achievement charter school enrolls pupils at a high school grade level.*

2. *An achievement charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the achievement charter school if requested by the Executive Director.*

Sec. 25. 1. *Upon request of the Executive Director, the board of trustees of the school district in which an achievement charter school is located shall provide facilities to operate the achievement charter school, in addition to and not including the building in which the achievement charter school operates pursuant to section 22 of this act, or perform any service relating to the operation of the achievement charter school, including, without limitation, transportation, the provision of health services for pupils who are enrolled in the achievement charter school and the provision of school police officers. The governing body of the achievement charter school*

shall reimburse the board of trustees for the cost of such facilities and services. If a dispute arises between the governing body of an achievement charter school or the Executive Director and the board of trustees of a school district concerning the cost of such facilities and services to be reimbursed, the Superintendent of Public Instruction must determine the cost to be reimbursed.

2. In addition to the school building used by the Achievement School District pursuant to section 22 of this act, an achievement charter school may use any public facility located within the school district in which the achievement charter school is located. An achievement charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district. ~~and during times that are not regular school hours.~~

3. The board of trustees of a school district may donate surplus personal property of the school district to an achievement charter school that is located within the school district.

4. An achievement charter school may:

(a) Acquire by construction, purchase, devise, gift, exchange or lease, or any combination of those methods, and construct, reconstruct, improve, maintain, equip and furnish any building, structure or property to be used for any of its educational purposes and the related appurtenances, easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities and lands;

(b) Mortgage, pledge or otherwise encumber all or any part of its property or assets;

(c) Borrow money and otherwise incur indebtedness; and

(d) Use public money to purchase real property or buildings with the approval of the Achievement School District.

5. To the extent money is available from legislative appropriation or otherwise, an achievement charter school may apply to the Department for money for facilities if it meets the requirements prescribed by regulation of the Department.

Sec. 26. 1. Except as otherwise provided in this section, upon the request of a parent or legal guardian of a pupil who is enrolled in an achievement charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in a class that is not available to the pupil at the achievement charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

2. If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to subsection 1, the board of trustees is not required to provide transportation for the pupil to attend the class or activity.

3. Upon the request of a parent or legal guardian of a pupil who is enrolled in an achievement charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in sports at the public school that he or she would otherwise be required to attend within the school district or, upon approval of the board of trustees, any public school within the same zone of attendance as the achievement charter school if:

- (a) Space is available for the pupil to participate; and
- (b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

4. If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to subsection 3, the board of trustees is not required to provide transportation for the pupil to participate.

5. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sport at a public school pursuant to subsections 1 or 3 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 27. 1. All employees of an achievement charter school shall be deemed public employees ~~and~~ and are not employees of the Department.

2. ~~The governing body~~ Except as otherwise provided in a collective bargaining agreement entered into by the governing body of an achievement charter school pursuant to chapter 288 of NRS, the principal of an achievement charter school may make ~~all~~ :

(a) All decisions concerning the terms and conditions of employment with the achievement charter school and any other matter relating to employment with the achievement charter school ~~and~~ ~~In addition, the governing body may make all~~ ; and

(b) All employment decisions with regard to ~~its~~ the employees of the achievement charter school pursuant to NRS 391.311 to 391.3197, inclusive ~~and~~ ~~unless a collective bargaining agreement entered into by the governing body pursuant to chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.~~

3. Upon the request of the governing body of an achievement charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the achievement charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The

employment record must include, without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.

Sec. 28. 1. *Except as otherwise provided in this section, if the contract to operate an achievement charter school is terminated or if an achievement charter school ceases to operate as an achievement charter school or charter school, the licensed employees of the achievement charter school must be reassigned to employment within the school district in accordance with the applicable collective bargaining agreement.*

2. *A school district is not required to reassign a licensed employee of an achievement charter school pursuant to subsection 1 if the employee:*

(a) Was not granted a leave of absence by the school district to accept employment at the achievement charter school pursuant to section 29 of this act;

(b) Was granted a leave of absence by the school district and did not submit a written request to return to employment with the school district in accordance with section 29 of this act; or

(c) Does not comply with or is otherwise not eligible to return to employment pursuant to section 30 of this act, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the achievement charter school.

Sec. 29. 1. *The board of trustees of a school district shall grant a leave of absence, not to exceed 6 years, to any licensed employee who is employed by the board of trustees who requests such a leave of absence to accept or continue employment with an achievement charter school.*

2. *After any of the first 5 school years in which a licensed employee is on a leave of absence, the employee may return to a comparable teaching position with the board of trustees. After the sixth school year, a licensed employee shall either submit a written request to return to a comparable teaching position or resign from the position for which the employee's leave was granted.*

3. *The board of trustees shall grant a written request to return to a comparable position pursuant to subsection 2 even if the return of the licensed employee requires the board of trustees to reduce the existing workforce of the school district.*

4. *The board of trustees is not required to accept the return of a licensed employee if the employee does not comply with or is otherwise not eligible to return to employment pursuant to section 30 of this act, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the achievement charter school.*

5. *The board of trustees may require that a request to return to a comparable teaching position submitted pursuant to subsection 2 be*

submitted at least 90 days before the employee would otherwise be required to report to duty.

Sec. 30. 1. *Upon the request of the board of trustees of a school district, the governing body of an achievement charter school shall, with the permission of the licensed employee who is granted a leave of absence from the school district pursuant to section 29 of this act, transmit to the school district a copy of the employment record of the employee that is maintained by the achievement charter school before the return of the employee to employment with the school district pursuant to section 28 or 29 of this act.*

2. *The employment record provided pursuant to subsection 1 must include, without limitation, each evaluation of the licensed employee conducted by the achievement charter school and any disciplinary action taken by the achievement charter school against the licensed employee.*

3. *Before the return of the licensed employee, the board of trustees of the school district may conduct an investigation into any misconduct of the licensed employee during the leave of absence from the school district and take any appropriate disciplinary action as to the status of the person as an employee of the school district, including, without limitation:*

(a) The dismissal of the employee from employment with the school district; or

(b) Upon the employee's return to employment with the school district, documentation of the disciplinary action taken against the employee into the employment record of the employee that is maintained by the school district.

4. *If a school district conducts an investigation pursuant to subsection 3:*

(a) The licensed employee is not entitled to return to employment with the school district until the investigation is complete; and

(b) The investigation must be conducted within a reasonable time.

Sec. 31. 1. *A licensed employee who is on a leave of absence from a school district pursuant to section 29 of this act:*

(a) Shall contribute to and be eligible for all benefits for which the employee would otherwise be entitled, including, without limitation, participation in the Public Employees' Retirement System and accrual of time for the purposes of leave and retirement.

(b) Continues, while the employee is on leave, to be covered by the collective bargaining agreement of the school district only with respect to any matter relating to his or her status or employment with the district.

2. *The time during which such an employee is on a leave of absence and employed in an achievement charter school does not count toward the acquisition of permanent status with the school district.*

3. *Upon the return of a teacher to employment in the school district, the teacher is entitled to the same level of retirement, salary and any other benefits to which the teacher would otherwise be entitled if the teacher had not taken a leave of absence to teach in an achievement charter school.*

4. An employee of an achievement charter school who is not on a leave of absence from a school district is eligible for all benefits for which the employee would be eligible for employment in a public school, including, without limitation, participation in the Public Employees' Retirement System.

Sec. 32. 1. For all employees of an achievement charter school:

(a) The compensation that a teacher or other school employee would have received if he or she were employed by the school district must be used to determine the appropriate levels of contribution required of the employee and employer for purposes of the Public Employees' Retirement System.

(b) The compensation that is paid to a teacher or other school employee that exceeds the compensation that the employee would have received if he or she were employed by the school district must not be included for the purposes of calculating future retirement benefits of the employee.

2. If the board of trustees of a school district in which an achievement charter school is located manages a plan of group insurance for its employees, the governing body of the achievement charter school may negotiate with the board of trustees to participate in the same plan of group insurance that the board of trustees offers to its employees. If the employees of the achievement charter school participate in the plan of group insurance managed by the board of trustees, the governing body of the achievement charter school must:

(a) Ensure that the premiums for that insurance are paid to the board of trustees; and

(b) Provide, upon the request of the board of trustees, all information that is necessary for the board of trustees to provide the group insurance to the employees of the achievement charter school.

Sec. 33. 1. During the sixth year that a school operates as an achievement charter school, the Executive Director shall evaluate the pupil achievement and school performance of the school. If, as a result of such an evaluation, the Executive Director determines:

(a) That the achievement charter school has made adequate improvement in pupil achievement and school performance, the ~~principal~~ governing body of the achievement charter school must decide whether to:

(1) Convert to a public school under the governance of the board of trustees of the school district in which the school is located;

(2) Seek to continue as a charter school subject to the provisions of NRS 386.490 to 386.649, inclusive, and section 11 of this act by applying to the board of trustees of the school district in which the school is located, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education to sponsor the charter school pursuant to NRS 386.525; or

(3) Remain an achievement charter school for at least 6 more years.

(b) That the achievement charter school has not made adequate improvement in pupil achievement and school performance, the school must

continue to operate as an achievement charter school for at least 6 more years. The Executive Director shall evaluate the pupil achievement and school performance of such a school at least each 3 years of operation thereafter.

2. If an achievement charter school is converted to a public school under the governance of the board of trustees of a school district pursuant to paragraph (a) of subsection 1, the board of trustees must employ any teacher, administrator or paraprofessional who wishes to continue employment at the school and meets the requirements of chapter 391 of NRS to teach at the school. Any administrator or teacher employed at such a school who was employed by the board of trustees as a postprobationary employee before the school was converted to an achievement charter school and who wishes to continue employment at the school after it is converted back into a public school must be employed as a postprobationary employee.

3. If an achievement charter school becomes a charter school sponsored by the school district in which the charter school is located, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education pursuant to paragraph (a) of subsection 1, the school is subject to the provisions of NRS 386.490 to 386.649, inclusive, and section 11 of this act, and the continued operation of the charter school in the building in which the school has been operating is subject to the provisions of NRS 386.560.

4. As used in this section, "postprobationary employee" has the meaning ascribed to it in NRS 391.311.

Sec. 34. The Department shall adopt any regulations necessary or convenient to carry out the provisions of sections 12 to 34, inclusive, of this act. The regulations may prescribe, without limitation:

1. The process by which the Executive Director will solicit the input of:
 - (a) Members of the community in which a public school is located, including, without limitation, parents of pupils enrolled at the public school, before selecting the public school for conversion to an achievement charter school pursuant to section 20 of this act; and
 - (b) Parents of pupils enrolled at a public school that has been selected for conversion to an achievement charter school concerning the needs of such pupils before approving an application to operate the achievement charter school pursuant to section 21 of this act.

2. The process by which the Executive Director will solicit applications to operate an achievement charter school ~~the contents of such an application~~ and the procedure and criteria that the Executive Director must use when evaluating such applications. ~~§~~

~~2.1~~ 3. The manner in which the Executive Director will monitor and evaluate pupil achievement and school performance of an achievement charter school. ~~§~~

~~3.1~~ 4. The process by which the parent or legal guardian of a child may apply for enrollment in an Achievement Charter School, including, without

limitation, the required contents of the application, and the criteria used to determine which pupils will be enrolled in the Achievement Charter School.

~~4.~~ **An achievement charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the race, gender, religion, ethnicity or disability of a pupil.**

5. Circumstances under which the governing body of a charter school may authorize a child who is enrolled in a public school of a school district or a private school or a homeschooled child to participate in a class at an achievement charter school that is not otherwise available to the child at his or her school or homeschool or participate in an extracurricular activity at the achievement charter school.

~~5.~~ **6. The procedure for converting an achievement charter school into a public school.**

Sec. 35. NRS 386.490 is hereby amended to read as follows:

386.490 As used in NRS 386.490 to 386.649, inclusive, **and section 11 of this act**, the words and terms defined in NRS 386.492 to 386.503, inclusive, **and section 11 of this act**, have the meanings ascribed to them in those sections.

Sec. 36. NRS 386.505 is hereby amended to read as follows:

386.505 The Legislature declares that by authorizing the formation of charter schools it is not authorizing:

1. ~~The~~ **Except as otherwise provided in section 33 of this act**, the conversion of an existing public school, homeschool or other program of home study to a charter school.

2. A means for providing financial assistance for private schools or programs of home study. The provisions of this subsection do not preclude:

(a) A private school from ceasing to operate as a private school and reopening as a charter school in compliance with the provisions of NRS 386.490 to 386.649, inclusive ~~and~~, **and section 11 of this act**.

(b) The payment of money to a charter school for the enrollment of children in classes at the charter school pursuant to subsection 5 of NRS 386.580 who are enrolled in a public school of a school district or a private school or who are homeschooled.

3. The formation of charter schools on the basis of a single race, religion or ethnicity.

Sec. 37. NRS 386.506 is hereby amended to read as follows:

386.506 The provisions of NRS 386.490 to 386.649, inclusive, **and section 11 of this act** do not authorize an existing public school, homeschool or other program of home study to convert to a charter school ~~and~~ **except as otherwise provided in section 33 of this act**.

Sec. 38. NRS 386.525 is hereby amended to read as follows:

386.525 1. A charter school may submit the application to the proposed sponsor of the charter school. ~~and~~ **Except as otherwise provided in section 33 of this act**, if an application proposes to convert an existing public school,

homeschool or other program of home study into a charter school, the proposed sponsor shall deny the application.

2. The proposed sponsor of a charter school shall, in reviewing an application to form a charter school:

(a) Assemble a team of reviewers who possess the appropriate knowledge and expertise with regard to the academic, financial and organizational experience of charter schools to review and evaluate the application;

(b) Conduct a thorough evaluation of the application, which includes an in-person interview with the committee to form the charter school;

(c) Base its determination on documented evidence collected through the process of reviewing the application; and

(d) Adhere to the policies and practices developed by the proposed sponsor pursuant to subsection 5 of NRS 386.515.

3. The proposed sponsor of a charter school may approve an application to form a charter school only if the proposed sponsor determines that:

(a) The application:

(1) Complies with NRS 386.490 to 386.649, inclusive, **and section 11 of this act** and the regulations applicable to charter schools; and

(2) Is complete in accordance with the regulations of the Department; and

(b) The applicant has demonstrated competence in accordance with the criteria for approval prescribed by the sponsor pursuant to subsection 5 of NRS 386.515 that will likely result in a successful opening and operation of the charter school.

4. If the board of trustees of a school district or a college or a university within the Nevada System of Higher Education, as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than 60 days after the receipt of the application, or a later period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. The board of trustees, the college or the university, as applicable, shall review an application in accordance with the requirements for review set forth in subsections 2 and 3.

5. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of subsection 3.

6. The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application. If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

7. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection 6,

the applicant may submit a written request for sponsorship by the State Public Charter School Authority not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

8. If the State Public Charter School Authority receives an application pursuant to subsection 1 or 7, it shall consider the application at a meeting which must be held not later than 60 days after receipt of the application or a later period mutually agreed upon by the committee to form the charter school and the State Public Charter School Authority. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Public Charter School Authority shall review the application in accordance with the requirements for review set forth in subsections 2 and 3. The State Public Charter School Authority may approve an application only if it satisfies the requirements of subsection 3. Not more than 30 days after the meeting, the State Public Charter School Authority shall provide written notice of its determination to the applicant.

9. If the State Public Charter School Authority denies or fails to act upon an application, the denial or failure to act must be based upon a finding that the applicant failed to satisfy the requirements of subsection 3. The State Public Charter School Authority shall include in the written notice the reasons for the denial or the failure to act and the deficiencies in the application. The staff designated by the State Public Charter School Authority shall meet with the applicant to confer on the method to correct the identified deficiencies. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

10. If the State Public Charter School Authority denies an application after it has been resubmitted pursuant to subsection 9, the applicant may, not more than 30 days after the receipt of the written notice from the State Public Charter School Authority, appeal the final determination to the district court of the county in which the proposed charter school will be located.

11. On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the State Public Charter School Authority, a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 39. NRS 386.550 is hereby amended to read as follows:

386.550 1. A charter school shall:

(a) Comply with all laws and regulations relating to discrimination and civil rights.

(b) Remain nonsectarian, including, without limitation, in its educational programs, policies for admission and employment practices.

(c) Refrain from charging tuition or fees, levying taxes or issuing bonds.

(d) Comply with any plan for desegregation ordered by a court that is in effect in the school district in which the charter school is located.

(e) Comply with the provisions of chapter 241 of NRS.

(f) Except as otherwise provided in this paragraph, schedule and provide annually at least as many days of instruction as are required of other public schools located in the same school district as the charter school is located. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction for a waiver from providing the days of instruction required by this paragraph. The Superintendent of Public Instruction may grant such a request if the governing body demonstrates to the satisfaction of the Superintendent that:

(1) Extenuating circumstances exist to justify the waiver; and

(2) The charter school will provide at least as many hours or minutes of instruction as would be provided under a program consisting of 180 days.

(g) Cooperate with the board of trustees of the school district in the administration of the examinations administered pursuant to NRS 389.550 and, if the charter school enrolls pupils at a high school grade level, the end-of-course examinations administered pursuant to NRS 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807 to the pupils who are enrolled in the charter school.

(h) Comply with applicable statutes and regulations governing the achievement and proficiency of pupils in this State.

(i) Provide instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school, and provide at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and require the pupils who are enrolled in the charter school to take those courses of study. This paragraph does not preclude a charter school from offering, or requiring the pupils who are enrolled in the charter school to take, other courses of study that are required by statute or regulation.

(j) If the parent or legal guardian of a child submits an application to enroll in kindergarten, first grade or second grade at the charter school, comply with NRS 392.040 regarding the ages for enrollment in those grades.

(k) Refrain from using public money to purchase real property or buildings without the approval of the sponsor.

(l) Hold harmless, indemnify and defend the sponsor of the charter school against any claim or liability arising from an act or omission by the governing body of the charter school or an employee or officer of the charter school. An action at law may not be maintained against the sponsor of a charter school for

any cause of action for which the charter school has obtained liability insurance.

(m) Provide written notice to the parents or legal guardians of pupils in grades 9 to 12, inclusive, who are enrolled in the charter school of whether the charter school is accredited by the Commission on Schools of the Northwest Association of Schools and of Colleges and Universities.

(n) Adopt a final budget in accordance with the regulations adopted by the Department. A charter school is not required to adopt a final budget pursuant to NRS 354.598 or otherwise comply with the provisions of chapter 354 of NRS.

(o) If the charter school provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive, comply with all statutes and regulations that are applicable to a program of distance education for purposes of the operation of the program.

2. A charter school shall not provide instruction through a program of distance education to children who are exempt from compulsory attendance ~~[authorized by the State Board]~~ pursuant to subsection 1 of NRS 392.070. As used in this subsection, "distance education" has the meaning ascribed to it in NRS 388.826.

Sec. 39.5. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or in which a pupil enrolled in the charter school resides or with the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers. If the board of trustees of a school district or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the governing body and the sponsor must enter into a service agreement pursuant to NRS 386.561 before the provision of such services.

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district. ~~[and during times that are not regular school hours.]~~

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. A charter school may:

(a) Acquire by construction, purchase, devise, gift, exchange or lease, or any combination of those methods, and construct, reconstruct, improve, maintain, equip and furnish any building, structure or property to be used for any of its educational purposes and the related appurtenances, easements,

rights-of-way, improvements, paving, utilities, landscaping, parking facilities and lands;

(b) Mortgage, pledge or otherwise encumber all or any part of its property or assets;

(c) Borrow money and otherwise incur indebtedness; and

(d) Use public money to purchase real property or buildings with the approval of the sponsor.

5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➡ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

6. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in sports at the public school that he or she would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➡ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

7. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 5 and 6 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so

revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 40. NRS 386.593 is hereby amended to read as follows:

386.593 1. A person who is initially hired as a paraprofessional by a charter school after January 8, 2002, to work in a program supported with Title I money must possess the qualifications required by 20 U.S.C. § 6319(c).

2. A person who is employed as a paraprofessional by a charter school, regardless of the date of hire, to work in a program supported with Title I money must possess, on or before January 8, 2006, the qualifications required by 20 U.S.C. § 6319(c).

3. For the purposes of this section, a person is not “initially hired” if the person has been employed as a paraprofessional by another school district, **achievement charter school** or charter school in this State without an interruption in employment before the date of hire by his or her current employer.

4. As used in this section, “paraprofessional” has the meaning ascribed to it in NRS 391.008.

Sec. 41. NRS 386.720 is hereby amended to read as follows:

386.720 1. There is hereby established a Program of Empowerment Schools for public schools within this State. The Program does not include a university school for profoundly gifted pupils ~~but~~ **or an achievement charter school.**

2. The board of trustees of a school district which is located:

(a) In a county whose population is less than 100,000 may approve public schools located within the school district to operate as empowerment schools.

(b) In a county whose population is 100,000 or more shall approve not less than 5 percent of the schools located within the school district to operate as empowerment schools.

3. The board of trustees of a school district which participates in the Program of Empowerment Schools shall, on or before September 1 of each year, provide notice to the Department of the number of schools within the school district that are approved to operate as empowerment schools for that school year.

4. The board of trustees of a school district that participates in the Program of Empowerment Schools may create a design team for the school district. If such a design team is created, the membership of the design team must consist of the following persons appointed by the board of trustees:

(a) At least one representative of the board of trustees;

(b) The superintendent of the school district, or the superintendent’s designee;

(c) Parents and legal guardians of pupils enrolled in public schools in the school district;

(d) Teachers and other educational personnel employed by the school district, including, without limitation, school administrators;

(e) Representatives of organizations that represent teachers and other educational personnel;

(f) Representatives of the community in which the school district is located and representatives of businesses within the community; and

(g) Such other members as the board of trustees determines are necessary.

5. If a design team is created for a school district, the design team shall:

(a) Recommend policies and procedures relating to empowerment schools to the board of trustees of the school district; and

(b) Advise the board of trustees on issues relating to empowerment schools.

6. The board of trustees of a school district may accept gifts, grants and donations from any source for the support of the empowerment schools within the school district.

Sec. 42. NRS 387.067 is hereby amended to read as follows:

387.067 1. The State Board may accept and adopt regulations or establish policies for the disbursement of money appropriated and apportioned to the State of Nevada, the school districts or the charter schools of the State of Nevada by the Congress of the United States for purposes of elementary and secondary education.

2. The Superintendent of Public Instruction shall deposit the money with the State Treasurer, who shall make disbursements therefrom on warrants of the State Controller issued upon the order of the Superintendent of Public Instruction.

3. The State Board, any school district within this State, ***the Achievement School District*** and any governing body of any charter school in this State may, within the limits provided in this section, make such applications, agreements and assurances to the Federal Government, and conduct such programs as may be required as a condition precedent to the receipt of money appropriated by any Act of Congress for purposes of elementary and secondary education. Such an agreement or assurance must not require this State, or a school district or governing body to provide money above the amount appropriated or otherwise lawfully available for that purpose.

Sec. 43. NRS 387.080 is hereby amended to read as follows:

387.080 1. The Director may enter into agreements with any agency of the Federal Government, the Department, the State Board, ***the Achievement School District***, any board of trustees of a school district, any governing body of a charter school or any other entity or person. The Director may establish policies and prescribe regulations, authorize the employment of such personnel and take such other action as it considers necessary to provide for the establishment, maintenance, operation and expansion of any program of nutrition operated by a school district or of any other such program for which state or federal assistance is provided.

2. The State Treasurer shall disburse federal, state and other money designated for a program of nutrition on warrants of the State Controller issued upon the order of the Director pursuant to regulations or policies of the State Department of Agriculture.

3. The Director may:

(a) Give technical advice and assistance to any person or entity in connection with the establishment and operation of any program of nutrition.

(b) Assist in training personnel engaged in the operation of any program of nutrition.

Sec. 44. NRS 387.090 is hereby amended to read as follows:

387.090 The board of trustees of each school district , ***the Executive Director of the Achievement School District*** and the governing body of each charter school may:

1. Operate or provide for the operation of programs of nutrition in the public schools under their jurisdiction.

2. Use therefor money disbursed to them pursuant to the provisions of NRS 387.068 to 387.112, inclusive, gifts, donations and other money received from the sale of food under those programs.

3. Deposit the money in one or more accounts in one or more banks or credit unions within the State.

4. Contract with respect to food, services, supplies, equipment and facilities for the operation of the programs.

Sec. 45. NRS 387.123 is hereby amended to read as follows:

387.123 1. The count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, and pupils who are enrolled in a university school for profoundly gifted pupils located in the county, for:

(a) Pupils in the kindergarten department.

(b) Pupils in grades 1 to 12, inclusive.

(c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive.

(d) Pupils who reside in the county and are enrolled part-time in a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

(e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.

(f) Pupils who are enrolled in classes pursuant to subsection 5 of NRS 386.560 , ~~and~~ pupils who are enrolled in classes pursuant to subsection 5 of NRS 386.580 ~~and~~ ***and pupils who are enrolled in classes pursuant to subsection 1 of section 26 of this act or any regulations adopted pursuant to section 34 of this act that authorize a child who is enrolled at a public school of a school district or a private school or a homeschooled child to participate in a class at an achievement charter school.***

(g) Pupils who are enrolled in classes pursuant to subsection 3 of NRS 392.070.

(h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).

2. The State Board shall establish uniform regulations for counting enrollment and calculating the average daily attendance of pupils. In establishing such regulations for the public schools, the State Board:

(a) Shall divide the school year into 10 school months, each containing 20 or fewer school days, or its equivalent for those public schools operating under an alternative schedule authorized pursuant to NRS 388.090.

(b) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.

(c) Shall prohibit the counting of any pupil specified in subsection 1 more than once.

3. Except as otherwise provided in subsection 4 and NRS 388.700, the State Board shall establish by regulation the maximum pupil-teacher ratio in each grade, and for each subject matter wherever different subjects are taught in separate classes, for each school district of this State which is consistent with:

(a) The maintenance of an acceptable standard of instruction;

(b) The conditions prevailing in the school district with respect to the number and distribution of pupils in each grade; and

(c) Methods of instruction used, which may include educational television, team teaching or new teaching systems or techniques.

➡ If the Superintendent of Public Instruction finds that any school district is maintaining one or more classes whose pupil-teacher ratio exceeds the applicable maximum, and unless the Superintendent finds that the board of trustees of the school district has made every reasonable effort in good faith to comply with the applicable standard, the Superintendent shall, with the approval of the State Board, reduce the count of pupils for apportionment purposes by the percentage which the number of pupils attending those classes is of the total number of pupils in the district, and the State Board may direct the Superintendent to withhold the quarterly apportionment entirely.

4. The provisions of subsection 3 do not apply to a charter school, a university school for profoundly gifted pupils or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

Sec. 46. NRS 387.1233 is hereby amended to read as follows:

387.1233 1. Except as otherwise provided in subsection 2, basic support of each school district must be computed by:

(a) Multiplying the basic support guarantee per pupil established for that school district for that school year by the sum of:

(1) Six-tenths the count of pupils enrolled in the kindergarten department on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county

and are enrolled in any charter school on the last day of the first school month of the school district for the school year.

(2) The count of pupils enrolled in grades 1 to 12, inclusive, on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year and the count of pupils who are enrolled in a university school for profoundly gifted pupils located in the county.

(3) The count of pupils not included under subparagraph (1) or (2) who are enrolled full-time in a program of distance education provided by that school district or a charter school located within that school district on the last day of the first school month of the school district for the school year.

(4) The count of pupils who reside in the county and are enrolled:

(I) In a public school of the school district and are concurrently enrolled part-time in a program of distance education provided by another school district or a charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(II) In a charter school and are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(5) The count of pupils not included under subparagraph (1), (2), (3) or (4), who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive, on the last day of the first school month of the school district for the school year, excluding the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.475 on that day.

(6) Six-tenths the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.475 on the last day of the first school month of the school district for the school year.

(7) The count of children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570 on the last day of the first school month of the school district for the school year.

(8) The count of pupils who are enrolled in classes for at least one semester pursuant to subsection 5 of NRS 386.560, subsection 5 of NRS 386.580, ~~for~~ subsection 3 of NRS 392.070 ~~or~~ **or subsection 1 of section**

26 of this act ~~or~~ or any regulations adopted pursuant to section 34 of this act that authorize a child who is enrolled at a public school of a school district or a private school or a homeschooled child to participate in a class at an achievement charter school, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(b) Multiplying the number of special education program units maintained and operated by the amount per program established for that school year.

(c) Adding the amounts computed in paragraphs (a) and (b).

2. Except as otherwise provided in subsection 4, if the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is less than or equal to 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the largest number from among the immediately preceding 2 school years must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

3. Except as otherwise provided in subsection 4, if the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is more than 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the larger enrollment number from the current year or the immediately preceding school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

4. If the Department determines that a school district or charter school deliberately causes a decline in the enrollment of pupils in the school district or charter school to receive a higher apportionment pursuant to subsection 2 or 3, including, without limitation, by eliminating grades or moving into smaller facilities, the enrollment number from the current school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

5. Pupils who are excused from attendance at examinations or have completed their work in accordance with the rules of the board of trustees must be credited with attendance during that period.

6. Pupils who are incarcerated in a facility or institution operated by the Department of Corrections must not be counted for the purpose of computing basic support pursuant to this section. The average daily attendance for such pupils must be reported to the Department of Education.

7. Pupils who are enrolled in courses which are approved by the Department as meeting the requirements for an adult to earn a high school

diploma must not be counted for the purpose of computing basic support pursuant to this section.

Sec. 47. NRS 388.020 is hereby amended to read as follows:

388.020 1. An elementary school is a public school in which grade work is not given above that included in the eighth grade, according to the regularly adopted state course of study.

2. A junior high or middle school is a public school in which the sixth, seventh, eighth and ninth grades are taught under a course of study prescribed and approved by the State Board. The school is an elementary or secondary school for the purpose of the licensure of teachers.

3. A high school is a public school in which subjects above the eighth grade, according to the state course of study, may be taught. The school is a secondary school for the purpose of the licensure of teachers.

4. A special school is an organized unit of instruction operating with approval of the State Board.

5. A charter school is a public school that is formed pursuant to the provisions of NRS 386.490 to 386.649, inclusive ~~[-]~~, **and section 11 of this act or an achievement charter school that is formed pursuant to sections 12 to 34, inclusive, of this act.**

6. A university school for profoundly gifted pupils is a public school established pursuant to NRS 392A.010 to 392A.110, inclusive.

Sec. 48. NRS 388.795 is hereby amended to read as follows:

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

(a) Plans that have been adopted by the Department and the school districts in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to NRS 385.3493 and similar information included in the annual report of accountability information prepared by the State Public Charter School Authority, **the Achievement School District** and a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347;

(d) The results of the assessment of needs conducted pursuant to subsection 6; and

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements

of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

↪ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

- (a) The recommendations set forth in the plan pursuant to subsection 2;
- (b) The plan for educational technology of each school district, if applicable;
- (c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and
- (d) Any other information deemed relevant by the Commission.

➡ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 49. NRS 388.880 is hereby amended to read as follows:

388.880 1. Except as otherwise provided in subsection 2, if any person who knows or has reasonable cause to believe that another person has made a threat of violence against a school official, school employee or pupil reports in good faith that threat of violence to a school official, teacher, school police officer, local law enforcement agency or potential victim of the violence that is threatened, the person who makes the report is immune from civil liability for any act or omission relating to that report. Such a person is not immune from civil liability for any other act or omission committed by the person as a part of, in connection with or as a principal, accessory or conspirator to the violence, regardless of the nature of the other act or omission.

2. The provisions of this section do not apply to a person who:

- (a) Is acting in his or her professional or occupational capacity and is required to make a report pursuant to NRS 200.5093, 200.50935 or 432B.220.

(b) Is required to make a report concerning the commission of a violent or sexual offense against a child pursuant to NRS 202.882.

3. As used in this section:

(a) “Reasonable cause to believe” means, in light of all the surrounding facts and circumstances which are known, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.

(b) “School employee” means a licensed or unlicensed person who is employed by:

(1) A board of trustees of a school district pursuant to NRS 391.100; ~~for~~

(2) The governing body of a charter school ~~for~~; or

(3) The Achievement School District.

(c) “School official” means:

(1) A member of the board of trustees of a school district.

(2) A member of the governing body of a charter school.

(3) An administrator employed by the board of trustees of a school district or the governing body of a charter school.

(4) The Executive Director of the Achievement School District.

(d) “Teacher” means a person employed by the:

(1) Board of trustees of a school district to provide instruction or other educational services to pupils enrolled in public schools of the school district.

(2) Governing body of a charter school to provide instruction or other educational services to pupils enrolled in the charter school.

Sec. 50. NRS 389.612 is hereby amended to read as follows:

389.612 “School official” means:

1. A member of a board of trustees of a school district;

2. A member of a governing body of a charter school; or

3. A licensed or unlicensed person employed by the board of trustees of a school district, ~~for~~ the governing body of a charter school ~~for~~ or the **Achievement School District.**

Sec. 51. NRS 389.616 is hereby amended to read as follows:

389.616 1. The Department shall, by regulation or otherwise, adopt and enforce a plan setting forth procedures to ensure the security of examinations that are administered to pupils pursuant to NRS 389.550 and 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807.

2. A plan adopted pursuant to subsection 1 must include, without limitation:

(a) Procedures pursuant to which pupils, school officials and other persons may, and are encouraged to, report irregularities in testing administration and testing security.

(b) Procedures necessary to ensure the security of test materials and the consistency of testing administration.

(c) Procedures that specifically set forth the action that must be taken in response to a report of an irregularity in testing administration or testing

security and the actions that must be taken during an investigation of such an irregularity. For each action that is required, the procedures must identify:

(1) By category, the employees of the school district, ***Achievement School District***, charter school or Department, or any combination thereof, who are responsible for taking the action; and

(2) Whether the school district, ***Achievement School District***, charter school or Department, or any combination thereof, is responsible for ensuring that the action is carried out successfully.

(d) Objective criteria that set forth the conditions under which a school, including, without limitation, a charter school or a school district, or both, is required to file a plan for corrective action in response to an irregularity in testing administration or testing security for the purposes of NRS 389.636.

3. A copy of the plan adopted pursuant to this section and the procedures set forth therein must be submitted on or before September 1 of each year to:

(a) The State Board; and

(b) The Legislative Committee on Education, created pursuant to NRS 218E.605.

Sec. 52. NRS 391.045 is hereby amended to read as follows:

391.045 The Superintendent of Public Instruction shall file with the clerk of the board of trustees of each local school district a directory of all teachers and other educational personnel, including, without limitation, teachers and educational personnel employed by a charter school pursuant to NRS 386.590 and 386.595, ***and sections 27 to 32, inclusive, of this act***, who are entitled to draw salaries from the county school district fund, and shall advise the clerk from time to time of any changes or additions to the directory.

Sec. 53. NRS 391.180 is hereby amended to read as follows:

391.180 1. As used in this section, “employee” means any employee of a school district or charter school in this State.

2. A school month in any public school in this State consists of 4 weeks of 5 days each.

3. Nothing contained in this section prohibits the payment of employees’ compensation in 12 equal monthly payments for 9 or more months’ work.

4. The per diem deduction from the salary of an employee because of absence from service for reasons other than those specified in this section is that proportion of the yearly salary which is determined by the ratio between the duration of the absence and the total number of contracted workdays in the year.

5. Boards of trustees shall either prescribe by regulation or negotiate pursuant to chapter 288 of NRS, with respect to sick leave, accumulation of sick leave, payment for unused sick leave, sabbatical leave, personal leave, professional leave, military leave and such other leave as they determine to be necessary or desirable for employees. In addition, boards of trustees may either prescribe by regulation or negotiate pursuant to chapter 288 of NRS with respect to the payment of unused sick leave to licensed teachers in the form of purchase of service pursuant to subsection 4 of NRS 286.300. The amount of

service so purchased must not exceed the number of hours of unused sick leave or 1 year, whichever is less.

6. The salary of any employee unavoidably absent because of personal illness or accident, or because of serious illness, accident or death in the family, may be paid up to the number of days of sick leave accumulated by the employee. An employee may not be credited with more than 15 days of sick leave in any 1 school year. Except as otherwise provided in this subsection, if an employee takes a position with another school district or charter school, all sick leave that the employee has accumulated must be transferred from the employee's former school district or charter school to his or her new school district or charter school. The amount of sick leave so transferred may not exceed the maximum amount of sick leave which may be carried forward from one year to the next according to the applicable negotiated agreement or the policy of the district or charter school into which the employee transferred. Unless the applicable negotiated agreement or policy of the employing district or charter school provides otherwise, such an employee:

(a) Shall first use the sick leave credited to the employee from the district or charter school into which the employee transferred before using any of the transferred leave; and

(b) Is not entitled to compensation for any sick leave transferred pursuant to this subsection.

7. Subject to the provisions of subsection 8:

(a) If an intermission of less than 6 days is ordered by the board of trustees of a school district or the governing body of a charter school for any good reason, no deduction of salary may be made therefor.

(b) If, on account of sickness, epidemic or other emergency in the community, a longer intermission is ordered by the board of trustees of a school district, the governing body of a charter school or a board of health and the intermission or closing does not exceed 30 days at any one time, there may be no deduction or discontinuance of salaries.

8. If the board of trustees of a school district or the governing body of a charter school orders an extension of the number of days of school to compensate for the days lost as the result of an intermission because of those reasons contained in paragraph (b) of subsection 7, an employee may be required to render his or her services to the school district or charter school during that extended period. If the salary of the employee was continued during the period of intermission as provided in subsection 7, the employee is not entitled to additional compensation for services rendered during the extended period.

9. If any subject referred to in this section is included in an agreement or contract negotiated by:

(a) The board of trustees of a school district pursuant to chapter 288 of NRS; or

(b) The governing body of a charter school pursuant to NRS 386.595, ***or sections 27 to 32, inclusive, of this act,***

↪ the provisions of the agreement or contract regarding that subject supersede any conflicting provisions of this section or of a regulation of the board of trustees.

Sec. 54. NRS 391.620 is hereby amended to read as follows:

391.620 “School official” means:

1. A member of a board of trustees of a school district;
2. A member of a governing body of a charter school; or
3. A licensed or unlicensed person employed by the board of trustees of a school district , ~~for~~ the governing body of a charter school ~~[-] or the~~ **Achievement School District.**

Sec. 55. NRS 392.128 is hereby amended to read as follows:

392.128 1. Each advisory board to review school attendance created pursuant to NRS 392.126 shall:

(a) Review the records of the attendance and truancy of pupils submitted to the advisory board to review school attendance by the board of trustees of the school district or the State Public Charter School Authority , **the Achievement School District** or a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 2 of NRS 385.3481;

(b) Identify factors that contribute to the truancy of pupils in the school district;

(c) Establish programs to reduce the truancy of pupils in the school district, including, without limitation, the coordination of services available in the community to assist with the intervention, diversion and discipline of pupils who are truant;

(d) At least annually, evaluate the effectiveness of those programs;

(e) Establish a procedure for schools and school districts for the reporting of the status of pupils as habitual truants; and

(f) Inform the parents and legal guardians of the pupils who are enrolled in the schools within the district of the policies and procedures adopted pursuant to the provisions of this section.

2. The chair of an advisory board may divide the advisory board into subcommittees. The advisory board may delegate one or more of the duties of the advisory board to a subcommittee of the advisory board, including, without limitation, holding hearings pursuant to NRS 392.147. If the chair of an advisory board divides the advisory board into subcommittees, the chair shall notify the board of trustees of the school district of this action. Upon receipt of such a notice, the board of trustees shall establish rules and procedures for each such subcommittee. A subcommittee shall abide by the applicable rules and procedures when it takes action or makes decisions.

3. An advisory board to review school attendance may work with a family resource center or other provider of community services to provide assistance to pupils who are truant. The advisory board shall identify areas within the school district in which community services are not available to assist pupils

who are truant. As used in this subsection, “family resource center” has the meaning ascribed to it in NRS 430A.040.

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

Sec. 56. NRS 400.030 is hereby amended to read as follows:

400.030 1. The P-20W Advisory Council, consisting of 11 voting members, is hereby created to assist in the coordination between early childhood education programs, K-12 public education, postsecondary education and the workforce in this State. The Chancellor of the System, the Superintendent of Public Instruction and the Director of the Department of Employment, Training and Rehabilitation serve as ex officio nonvoting members of the Council.

2. The Governor shall appoint five members to the Council as follows:

- (a) One representative of higher education in this State.
- (b) One representative of elementary and secondary education in this State.
- (c) One representative of private business in this State.
- (d) One member who is a parent of a pupil enrolled in a public school in this State or of a student enrolled in the System. The parent must not be employed by the board of trustees of a school district, **the Achievement School District**, the governing body of a charter school or the System.
- (e) One person who possesses knowledge of and experience in early childhood education programs and services for children in this State from birth through prekindergarten.

3. The Majority Leader of the Senate and the Speaker of the Assembly shall each appoint two members to the Council as follows:

- (a) One member of the House of the Legislature that he or she represents.
- (b) One person who meets the qualifications of paragraph (a), (b), (c) or (e) of subsection 2.

4. The Minority Leader of the Senate and the Minority Leader of the Assembly shall each appoint one member to the Council who is a member of the general public.

5. The members of the Council shall elect a Chair and a Vice Chair from among the members of the Council. After the initial term, the Chair and Vice Chair serve in the office for a term of 2 years beginning July 1 of each odd-numbered year. If a vacancy occurs in the office of Chair or Vice Chair, the members of the Council shall elect a member to fill the vacancy to serve for the remainder of the unexpired term of that office.

6. After the initial terms, each member of the Council serves a term of 3 years commencing on July 1 of the year of appointment. Such members may

be reappointed for one additional term. A vacancy on the Council must be filled for the remainder of the unexpired term in the same manner as the original appointment. Each member of the Council continues in office until his or her successor is appointed.

7. Any member who is absent from two consecutive meetings of the Council without permission of the Chair:

- (a) Forfeits his or her office; and
- (b) Must be replaced as provided in subsection 6 for the filling of a vacancy before the end of a term.

Sec. 57. The preliminary chapter of NRS is hereby amended by adding thereto the provisions set forth as sections 58 and 59 of this act.

Sec. 58. *Except as otherwise expressly provided in a particular statute or required by the context, "Achievement School District" means the Achievement School District created by section 17 of this act.*

Sec. 59. *Except as otherwise expressly provided in a particular statute or required by the context, "charter school" means a public school that is formed pursuant to the provisions of NRS 386.490 to 386.649, inclusive, and section 11 of this act, and an achievement charter school formed pursuant to the provisions of sections 12 to 34, inclusive, of this act.*

Sec. 60. NRS 41.0305 is hereby amended to read as follows:

41.0305 As used in NRS 41.0305 to 41.039, inclusive, the term "political subdivision" includes an organization that was officially designated as a community action agency pursuant to 42 U.S.C. § 2790 before that section was repealed and is included in the definition of an "eligible entity" pursuant to 42 U.S.C. § 9902, the Nevada Rural Housing Authority, an airport authority created by special act of the Legislature, a regional transportation commission and a fire protection district, **an** irrigation district, **a** school district, **the Achievement School District**, **the** governing body of a charter school, any other special district that performs a governmental function, even though it does not exercise general governmental powers, and the governing body of a university school for profoundly gifted pupils.

Sec. 61. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as provided in subsection 4, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

- (a) Salary or wage rates or other forms of direct monetary compensation.
- (b) Sick leave.
- (c) Vacation leave.
- (d) Holidays.
- (e) Other paid or nonpaid leaves of absence.
- (f) Insurance benefits.

(g) Total hours of work required of an employee on each workday or workweek.

(h) Total number of days' work required of an employee in a work year.

(i) Discharge and disciplinary procedures.

(j) Recognition clause.

(k) The method used to classify employees in the bargaining unit.

(l) Deduction of dues for the recognized employee organization.

(m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.

(n) No-strike provisions consistent with the provisions of this chapter.

(o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.

(p) General savings clauses.

(q) Duration of collective bargaining agreements.

(r) Safety of the employee.

(s) Teacher preparation time.

(t) Materials and supplies for classrooms.

(u) ~~The~~ **Except as otherwise provided in subsection 6, the** policies for the transfer and reassignment of teachers.

(v) Procedures for reduction in workforce consistent with the provisions of this chapter.

(w) Procedures and requirements for the reopening of collective bargaining agreements that exceed 1 year in duration for additional, further, new or supplementary negotiations during periods of fiscal emergency. The requirements for the reopening of a collective bargaining agreement must include, without limitation, measures of revenue shortfalls or reductions relative to economic indicators such as the Consumer Price Index, as agreed upon by both parties.

3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

(a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including without limitation workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. ***The board of trustees of a school district may reassign any member of the staff of a school that is converted to an achievement charter school pursuant to sections 20 ~~1, 21 and~~ to 22 , inclusive, of this act and any provision of any agreement negotiated pursuant to this chapter which provides otherwise is unenforceable and void.***

7. This section does not preclude, but this chapter does not require, the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

~~{7.}~~ 8. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

9. ***As used in this section, "achievement charter school" has the meaning ascribed to it in NRS 385.007.***

Sec. 62. NRS 332.185 is hereby amended to read as follows:

332.185 1. Except as otherwise provided in subsection 2 and NRS 244.1505 and 334.070, all sales of personal property of the local government must be made, as nearly as possible, under the same conditions and limitations as required by this chapter in the purchase of personal property. The governing body or its authorized representative may dispose of personal property of the local government by any manner, including, without limitation, at public auction, if the governing body or its authorized representative determines that the property is no longer required for public use and deems such action desirable and in the best interests of the local government.

2. The board of trustees of a school district may donate surplus personal property of the school district to any other school district in this State , ***to the Achievement School District*** or to a charter school that is located within the school district without regard to:

- (a) The provisions of this chapter; or
- (b) Any statute, regulation, ordinance or resolution that requires:
 - (1) The posting of notice or public advertising.
 - (2) The inviting or receiving of competitive bids.

(3) The selling or leasing of personal property by contract or at a public auction.

3. The provisions of this chapter do not apply to the purchase, sale, lease or transfer of real property by the governing body.

Sec. 63. NRS 361.065 is hereby amended to read as follows:

361.065 All lots, buildings and other school property owned by any legally created school district, ***the Achievement School District*** or a charter school within the State and devoted to public school purposes are exempt from taxation.

Sec. 64. NRS 656A.020 is hereby amended to read as follows:

656A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~656A.023~~ **656A.025** to 656A.065, inclusive, have the meanings ascribed to them in those sections.

Sec. 65. The provisions of section 20 of this act apply to any public school regardless of any other designations or programs to which the school may already be included. The prior ratings of such a public school may be used to determine whether to convert the school into an achievement charter school. As used in this section, “achievement charter school” has the meaning ascribed to it in NRS 385.007, as amended by section 2 of this act.

Sec. 66. The provisions of NRS 288.150, as amended by section 61 of this act:

1. Apply to any collective bargaining agreement entered into, extended or renewed on or after July 1, 2016, and any provision of the agreement that is in conflict with that section, as amended, is void.

2. Do not apply to any collective bargaining agreement entered into before the effective date of this act during the current term of the agreement.

Sec. 67. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 68. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 69. NRS 656A.023 is hereby repealed.

Sec. 70. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and carrying out any other preparatory administrative tasks necessary to implement the provisions of this act; and

2. On July 1, 2016, for all other purposes.

TEXT OF REPEALED SECTION

656A.023 “Charter school” defined. “Charter school” has the meaning ascribed to it in NRS 385.007.

Assemblywoman Woodbury moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 454.

Bill read second time.

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

Amendment No. 605.

SUMMARY—Revises ~~the applicability of~~ provisions governing **continuing education of managers and assistant managers of** manufactured home parks. (BDR 10-1127)

AN ACT relating to manufactured housing; revising ~~the applicability of~~ provisions governing **continuing education of managers and assistant managers of** manufactured home parks; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various provisions governing manufactured home parks. (Chapter 118B of NRS) **Under existing law, each manager and assistant manager of a manufactured home park is required to complete annually 6 hours of continuing education relating to the management of a manufactured home park. (NRS 118B.086)** This bill limits the applicability of ~~those provisions~~ **that provision to managers and assistant managers of** manufactured home parks ~~which have 10~~ **consisting of 6** or more manufactured home lots, ~~that are rented or held out for rent by revising the existing definition of the terms "manufactured home park" and "park."~~

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

Section 1. ~~NRS 118B.017 is hereby amended to read as follows:~~

~~118B.017 "Manufactured home park" or "park" means an area or tract of land where ~~two~~ 10 or more manufactured homes or manufactured home lots are rented or held out for rent. The terms do not include an area or tract of land where:~~

~~1. More than half of the lots are rented overnight or for less than 3 months for recreational vehicles.~~

~~2. Manufactured homes are used occasionally for recreational purposes and not as permanent residences.~~ **(Deleted by amendment.)**

Sec. 2. NRS 118B.086 is hereby amended to read as follows:

118B.086 1. Each manager and assistant manager of a manufactured home park ~~which has 2 or more lots~~ **consisting of 6 or more lots** shall complete annually 6 hours of continuing education relating to the management of a manufactured home park.

2. The Administrator shall adopt regulations specifying the areas of instruction for the continuing education required by subsection 1.

3. The instruction must include, but is not limited to, information relating to:

- (a) The provisions of chapter 118B of NRS;
- (b) Leases and rental agreements;

(c) Unlawful detainer and eviction as set forth in NRS 40.215 to 40.425, inclusive;

(d) The resolution of complaints and disputes concerning landlords and tenants of manufactured home parks; and

(e) The adoption and enforcement of the rules and regulations of a manufactured home park.

4. Each course of instruction and the instructor of the course must be approved by the Administrator. The Administrator shall adopt regulations setting forth the procedure for applying for approval of an instructor and course of instruction. The Administrator may require submission of such reasonable information by an applicant as the Administrator deems necessary to determine the suitability of the instructor and the course. The Administrator shall not approve a course if the fee charged for the course is not reasonable. Upon approval, the Administrator shall designate the number of hours of credit allowable for the course.

Sec. 3. NRS 118B.087 is hereby amended to read as follows:

118B.087 1. There are hereby created two regions to provide courses of continuing education pursuant to NRS 118B.086. One region is the northern region consisting of the counties of Washoe, Storey, Douglas, Lyon, Churchill, Pershing, Humboldt, Lander, Elko, Eureka, Mineral, White Pine and Carson City, and one region is the southern region consisting of the counties of Lincoln, Nye, Esmeralda and Clark.

2. The person who applied for approval of a course or his or her designee shall notify the Administrator of the date and location each time the course is offered, as soon as practicable after scheduling the course.

3. The Administrator shall ensure that a course of continuing education is offered at least every 6 months in each region. If the Administrator finds that no approved course will be offered to meet the requirements of this subsection, the Administrator shall offer the course and charge a reasonable fee for each person enrolled in the course.

4. If the fees collected by the Administrator for the course do not cover the cost of offering the course, the Administrator shall determine the difference between the fees collected and the cost of offering the course, divide that amount by the number of manufactured home parks ~~which have 2 lots or more~~ consisting of 6 or more lots in the region in which the course was held and assess that amount to each landlord of such a manufactured home park. The landlord shall pay the assessment within 30 days after it was mailed by the Administrator.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 459.

Bill read second time.

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

Amendment No. 517.

AN ACT relating to elections; requiring the Department of Motor Vehicles and certain courts to provide to the Secretary of State and relevant county clerk information related to persons who may not be citizens of the United States; requiring a county clerk to cancel the voter registration of certain persons; ~~requiring the Department to request certain information from the Social Security Administration relating to persons who are not citizens of the United States;~~ **providing, with limited exception, that certain information relating to elections or voter registration which is confidential or not a public record is also not subject to discovery or subpoena;** providing that the Department is not required to give an application to register to vote to certain persons who apply for driver authorization cards; requiring the Secretary of State to adopt certain regulations; requiring a person who claims that he or she is not qualified to act as a juror because he or she is not a citizen of the United States to submit a written affirmation ~~for~~ **for purposes of verifying that the person is not a registered voter;** making various other changes relating to voter registration; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth qualifications for voting in this State, including that a voter must be a citizen of the United States. (Nev. Const. Art. 2, 1) Existing law requires a county clerk to cancel the registration of a voter under certain circumstances, including that a person is not a citizen of the United States. (NRS 293.535, 293.540, 293.541) **Sections 2 and 3** of this bill require, with limited exceptions, a county clerk to cancel the voter registration of a person if ~~1. (1) the county clerk receives certain information from the Department of Motor Vehicles or a court indicating that the person may not be a United States citizen. 1. and (2) the person does not provide to the county clerk proof of citizenship.~~ Before the county clerk cancels the voter registration of the person, **sections 2 and 3** ~~8~~ **require the county clerk to provide certain notification to the person 1. In order to conform with federal law, sections 2 and 3 also prohibit** **to be given certain notice that his or her voter registration will be cancelled. Sections 2 and 3 provide that** a county clerk ~~from cancelling~~ **is not required to cancel** the voter registration of a person or ~~removing~~ **remove** a person's name from the statewide voter registration less than 90 days before a primary or general election ~~1. if doing so is prohibited by 1 (52 U.S.C. §§ 20507, 21083))~~ **federal law.**

Existing law requires the Department of Motor Vehicles to provide an application to register to vote to each person who applies for the issuance or renewal of a driver's license or identification card. (NRS 293.524) **Section 5** of this bill provides that the Department is not required to provide an application to register to vote to a person who applies for the issuance of a driver authorization card if the person is not a citizen of the United States.

Section 5 also requires the Secretary of State to adopt regulations establishing a procedure to ensure that a person who is not a citizen of the United States does not submit an application to register to vote at the Department.

~~[Existing law requires the Secretary of State to enter into an agreement with the Social Security Administration to verify the accuracy of information in an application to register to vote. (NRS 293.675) Section 7 of this bill authorizes the Department to request information from the Social Security Administration regarding any person with a social security number who is not a citizen of the United States.]~~

Section 8 of this bill requires a court of this State to notify the county clerk and Secretary of State if a person summoned for service on a jury claims to be ineligible because he or she is not a citizen of the United States ~~for~~ **for purposes of verifying that the person is not a registered voter.**

Existing law provides that certain information relating to elections or voter registration is confidential or is not a public record. (NRS 293.503, 293B.135, 293D.510) Section 3.5 of this bill provides that any such information is also not subject to discovery or subpoena in a civil action or criminal prosecution absent the consent of the person about whom the information pertains. This provision also would apply to the information declared to be confidential and not a public record pursuant to sections 2, 3 and 8.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, ~~and~~ **3 and 3.5** of this act.

Sec. 2. 1. Not later than 30 calendar days after receiving an application for a driver authorization card pursuant to NRS 483.291 from a person who does not provide documents that prove he or she is a citizen of the United States, the Department of Motor Vehicles shall submit to the Secretary of State and the county clerk of the county in which the person resides the full name, date of birth, mailing address ~~for~~ **and residential address ~~and any other relevant information~~ of the person for purposes of determining whether the person is registered to vote. ~~Any information provided pursuant to this subsection is confidential and not a public record. Such information may only be used for purposes of determining whether the person is registered to vote.~~ The Department may submit the information to the Secretary of State and county clerks through the use of electronic transmission if the information will be securely transmitted and stored by the Department, Secretary of State and county clerks. If the Department creates a record for purposes of submitting the information to the Secretary of State or a county clerk, the Department shall destroy the record immediately after submitting the record pursuant to this subsection.**

2. Not later than 5 business days after receiving information from the Department of Motor Vehicles pursuant to subsection 1, the county clerk

shall determine whether the person who applied for a driver authorization card pursuant to NRS 483.291 and is not a citizen of the United States is registered to vote. If the person is registered to vote, the county clerk shall notify the person by registered or certified mail, return receipt requested, that the voter registration of the person will be cancelled unless the person submits to the county clerk proof of citizenship not later than 15 business days after the date on the return receipt.

3. If a person submits proof of citizenship to the county clerk:

(a) On or before 15 business days after the date on the return receipt of the notification sent pursuant to subsection 2, the county clerk shall not cancel the person's voter registration.

(b) More than 15 business days after the date on the return receipt of the notification, the county clerk shall immediately reinstate the person's voter registration and enter the person's voter registration information on the statewide voter registration list.

4. Except as otherwise provided in subsection 5, if a person who receives a notice pursuant to subsection 2 does not submit proof of citizenship on or before 15 business days after the date on the return receipt of the notification sent pursuant to subsection 2, the county clerk shall cancel the voter registration of the person and remove the person from the statewide voter registration list.

5. The county clerk ~~shall~~ is not required to cancel the voter registration of the person or remove the person from the statewide voter registration list ~~(the name of a person)~~ pursuant to this section less than 90 days before a primary or general election ~~if~~ if such an action is prohibited by the National Voter Registration Act of 1993, 52 U.S.C. §§ 20501 et seq., as amended, or any other federal law.

6. For purposes of this section, the county clerk shall accept the following forms of proof of citizenship ~~if~~ if the person displays an original or certified copy thereof:

(a) A birth certificate issued by a state, a political subdivision of a state, the District of Columbia or any territory of the United States;

(b) A driver's license issued by another state, the District of Columbia or any territory of the United States which is issued pursuant to the standards established by 6 C.F.R. Part 37, Subparts A to E, inclusive, and which contains a security mark approved by the United States Department of Homeland Security in accordance with 6 C.F.R. § 37.17;

(c) A passport issued by the United States Government;

(d) A Certificate of Degree of Indian Blood issued by the United States Government;

(e) A Certificate of Citizenship or Certificate of Naturalization; or

(f) Any other form of identification issued by a governmental agency that requires a person to demonstrate his or her citizenship to receive such identification.

7. Information submitted by the Department of Motor Vehicles or received by the Secretary of State or a county clerk pursuant to this section:

(a) Is confidential and is not a public record; and

(b) May only be used for purposes of determining whether a person is registered to vote.

Sec. 3. 1. Not later than 5 business days after receiving ~~from a court~~ a written affirmation described in section 8 of this act ~~that~~ signed under penalty of perjury by a person who receives a summons to appear for jury duty and who declares that he or she is not qualified to act as a juror because ~~he or she is not a citizen of the United States,~~ the county clerk shall determine whether the person who ~~submitted~~ signed the written affirmation pursuant to section 8 of this act is registered to vote. ~~that~~

2. Except as otherwise provided in subsection 3, if the person is registered to vote, the county clerk shall ~~notify the person by registered or certified mail, return receipt requested, that the voter registration of the person will be cancelled unless the person submits to the county clerk proof of citizenship not later than 15 business days after the date on the return receipt.~~

~~2. If a person submits to the county clerk proof of citizenship:~~

~~(a) On or before 15 business days after the date on the return receipt of the notification sent pursuant to subsection 1, the county clerk shall not cancel the person's voter registration.~~

~~(b) More than 15 business days after the date on the return receipt of the notification, the county clerk shall immediately reinstate the person's voter registration and enter the person's voter registration information on the statewide voter registration list.~~

~~3. Except as otherwise provided in subsection 4, if a person who receives a notice pursuant to subsection 1 does not submit proof of citizenship on or before 15 business days after the date on the return receipt of the notification sent pursuant to subsection 1, the county clerk shall cancel the voter registration of the person and remove the person from the statewide voter registration list.~~

~~4.~~ 3. The county clerk ~~shall~~ is not required to cancel the voter registration of the person or remove the person from the statewide voter registration list ~~the name of a person~~ pursuant to this section less than 90 days before a primary or general election ~~for~~

~~5. For purposes of this section, the county clerk shall accept the following forms of proof of citizenship:~~

~~(a) A birth certificate issued by a state, a political subdivision of a state, the District of Columbia or any territory of the United States;~~

~~(b) A driver's license issued by another state, the District of Columbia or any territory of the United States which is issued pursuant to the standards established by 6 C.F.R. Part 37, Subparts A to E, inclusive, and which contains a security mark approved by the United States Department of Homeland Security in accordance with 6 C.F.R. § 37.17;~~

~~(c) A passport issued by the United States Government;~~
~~(d) A Certificate of Degree of Indian Blood issued by the United States Government;~~
~~(e) A Certificate of Citizenship or Certificate of Naturalization; or~~
~~(f) Any other form of identification issued by a governmental agency that requires a person to demonstrate his or her citizenship to receive such identification;~~ if such an action is prohibited by the National Voter Registration Act of 1993, 52 U.S.C. §§ 20501 et seq., as amended, or any other federal law.

4. Information contained in a written affirmation:

(a) Is confidential and is not a public record; and
(b) May not be used for purposes other than cancelling the voter registration of a person pursuant to this section.

Sec. 3.5. If any provision of this title declares that information is confidential or is not a public record, the information is not subject to discovery or subpoena in a civil action or criminal prosecution absent the consent of the person about whom the information pertains.

Sec. 4. NRS 293.503 is hereby amended to read as follows:

293.503 1. The county clerk of each county where a registrar of voters has not been appointed pursuant to NRS 244.164:

(a) Is ex officio county registrar and registrar for all precincts within the county.

(b) Shall have the custody of all books, documents and papers pertaining to registration provided for in this chapter.

2. All books, documents and papers pertaining to registration are official records of the office of the county clerk.

3. The county clerk shall maintain records of any program or activity that is conducted within the county to ensure the accuracy and currency of the registrar of voters' register for not less than 2 years after creation. The records must include the names and addresses of any person to whom a notice is mailed pursuant to NRS 293.5235, 293.530, or 293.535 **or section 2 ~~for 21~~ of this act** and whether the person responded to the notice.

4. Any program or activity that is conducted within the county for the purpose of removing the name of each person who is ineligible to vote in the county from the registrar of voters' register must be complete not later than 90 days before the next primary or general election.

5. Except as otherwise provided by subsection 6, all records maintained by the county clerk pursuant to subsection 3 must be available for public inspection.

6. Except as otherwise provided in NRS 239.0115, any information relating to where a person registers to vote must remain confidential and is not available for public inspection. Such information may only be used by an election officer for purposes related to voter registration.

Sec. 5. NRS 293.524 is hereby amended to read as follows:

293.524 1. The Department of Motor Vehicles shall provide an application to register to vote to each person who applies for the issuance or renewal of any type of driver's license or identification card issued by the Department. ***The provisions of this subsection do not require the Department to give an application to register to vote to a person who applies pursuant to NRS 483.291 for a driver authorization card and is not a citizen of the United States.***

2. The county clerk shall use the applications to register to vote which are signed and completed pursuant to subsection 1 to register applicants to vote or to correct information in the registrar of voters' register. An application that is not signed must not be used to register or correct the registration of the applicant.

3. For the purposes of this section, each employee specifically authorized to do so by the Director of the Department may oversee the completion of an application. The authorized employee shall check the application for completeness and verify the information required by the application. Each application must include a duplicate copy or receipt to be retained by the applicant upon completion of the form. The Department shall, except as otherwise provided in this subsection, forward each application on a weekly basis to the county clerk or, if applicable, to the registrar of voters of the county in which the applicant resides. The applications must be forwarded daily during the 2 weeks immediately preceding the fifth Sunday preceding an election.

4. The county clerk shall accept any application to register to vote which is obtained from the Department of Motor Vehicles pursuant to this section and completed by the fifth Sunday preceding an election if the county clerk receives the application not later than 5 days after that date. Upon receipt of an application, the county clerk or field registrar of voters shall determine whether the application is complete. If the county clerk or field registrar of voters determines that the application is complete, he or she shall notify the applicant and the applicant shall be deemed to be registered as of the date of the submission of the application. If the county clerk or field registrar of voters determines that the application is not complete, he or she shall notify the applicant of the additional information required. The applicant shall be deemed to be registered as of the date of the initial submission of the application if the additional information is provided within 15 days after the notice for the additional information is mailed. If the applicant has not provided the additional information within 15 days after the notice for the additional information is mailed, the incomplete application is void. Any notification required by this subsection must be given by mail at the mailing address on the application not more than 7 working days after the determination is made concerning whether the application is complete.

5. The county clerk shall use any form submitted to the Department to correct information on a driver's license or identification card to correct information in the registrar of voters' register, unless the person indicates on

the form that the correction is not to be used for the purposes of voter registration. The Department shall forward each such form to the county clerk or, if applicable, to the registrar of voters of the county in which the person resides in the same manner provided by subsection 3 for applications to register to vote.

6. Upon receipt of a form to correct information, the county clerk shall compare the information to that contained in the registrar of voters' register. If the person is a registered voter, the county clerk shall correct the information to reflect any changes indicated on the form. After making any changes, the county clerk shall notify the person by mail that the records have been corrected.

7. The Secretary of State shall, with the approval of the Director, adopt regulations to:

(a) Establish any procedure necessary to provide an elector who applies to register to vote pursuant to this section the opportunity to do so;

(b) Prescribe the contents of any forms or applications which the Department is required to distribute pursuant to this section; ~~and~~

(c) Provide for the transfer of the completed applications of registration from the Department to the appropriate county clerk for inclusion in the election board registers and registrar of voters' register ~~}; and~~

(d) Establish a procedure to ensure that a person who is not a citizen of the United States does not submit an application to register to vote to the Department.

Sec. 6. NRS 293.540 is hereby amended to read as follows:

293.540 The county clerk shall cancel the registration:

1. If the county clerk has personal knowledge of the death of the person registered, or if an authenticated certificate of the death of any elector is filed in the county clerk's office.

2. If the county clerk is provided a certified copy of a court order stating that the court specifically finds by clear and convincing evidence that the person registered lacks the mental capacity to vote because he or she cannot communicate, with or without accommodations, a specific desire to participate in the voting process.

3. Upon the determination that the person registered has been convicted of a felony unless:

(a) If the person registered was convicted of a felony in this State, the right to vote of the person has been restored pursuant to the provisions of NRS 213.090, 213.155 or 213.157.

(b) If the person registered was convicted of a felony in another state, the right to vote of the person has been restored pursuant to the laws of the state in which the person was convicted.

4. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.

5. Upon the request of any registered voter to affiliate with any political party or to change affiliation, if that change is made before the end of the last day to register to vote in the election.

6. At the request of the person registered.

7. If the county clerk has discovered an incorrect registration pursuant to the provisions of NRS 293.5235, 293.530 or 293.535 **or section 2 ~~for 3~~ of this act** and the elector has failed to respond or appear to vote within the required time.

8. As required by NRS 293.541 ~~1~~ **or section 3 of this act.**

9. Upon verification that the application to register to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.

Sec. 7. ~~NRS 293.675 is hereby amended to read as follows:~~

~~293.675 1. The Secretary of State shall establish and maintain an official statewide voter registration list, which may be maintained on the Internet, in consultation with each county and city clerk.~~

~~2. The statewide voter registration list must:~~

~~(a) Be a uniform, centralized and interactive computerized list;~~

~~(b) Serve as the single method for storing and managing the official list of registered voters in this State;~~

~~(c) Serve as the official list of registered voters for the conduct of all elections in this State;~~

~~(d) Contain the name and registration information of every legally registered voter in this State;~~

~~(e) Include a unique identifier assigned by the Secretary of State to each legally registered voter in this State;~~

~~(f) Except as otherwise provided in subsection 6, be coordinated with the appropriate databases of other agencies in this State;~~

~~(g) Be electronically accessible to each state and local election official in this State at all times;~~

~~(h) Except as otherwise provided in subsection 7, allow for data to be shared with other states under certain circumstances; and~~

~~(i) Be regularly maintained to ensure the integrity of the registration process and the election process.~~

~~3. Each county and city clerk shall:~~

~~(a) Electronically enter into the statewide voter registration list all information related to voter registration obtained by the county or city clerk at the time the information is provided to the county or city clerk; and~~

~~(b) Provide the Secretary of State with information concerning the voter registration of the county or city and other reasonable information requested by the Secretary of State in the form required by the Secretary of State to establish or maintain the statewide voter registration list.~~

~~4. In establishing and maintaining the statewide voter registration list, the Secretary of State shall enter into a cooperative agreement with the Department of Motor Vehicles to match information in the database of the statewide voter~~

registration list with information in the appropriate database of the Department of Motor Vehicles to verify the accuracy of the information in an application to register to vote.

~~5. The Department of Motor Vehicles shall **[enter]**:~~

~~(a) Enter into an agreement with the Social Security Administration pursuant to **[42] 52 U.S.C. § [15483,] 21083; and**~~

~~(b) Request that the Social Security Administration provide information regarding any person with a social security number who is not a citizen of the United States;~~

~~to verify the accuracy of information in an application to register to vote.~~

~~6. Except as otherwise provided in NRS 481.063 or any provision of law providing for the confidentiality of information, the Secretary of State may enter into an agreement with an agency of this State pursuant to which the agency provides to the Secretary of State any information in the possession of the agency that the Secretary of State deems necessary to maintain the statewide voter registration list.~~

~~7. The Secretary of State may:~~

~~(a) Request from the chief officer of elections of another state any information which the Secretary of State deems necessary to maintain the statewide voter registration list; and~~

~~(b) Provide to the chief officer of elections of another state any information which is requested and which the Secretary of State deems necessary for the chief officer of elections of that state to maintain a voter registration list, if the Secretary of State is satisfied that the information provided pursuant to this paragraph will be used only for the maintenance of that voter registration list.]~~

(Deleted by amendment.)

Sec. 8. Chapter 6 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person ~~who~~ receives a summons to appear for jury duty and the person claims that he or she is not qualified to act as a juror because he or she is not a citizen of the United States, the person ~~must~~ shall submit to the court a written affirmation, signed under penalty of perjury, ~~to~~ declaring that ~~effect~~ the person is not qualified to act as a juror because he or she is not a citizen of the United States. The written affirmation must be dated and include, without limitation ~~the~~ :

(a) The full name, date of birth, mailing address and residential address of the person ~~is~~ ; and

(b) A statement in the form prescribed by the Secretary of State that, by signing the written affirmation, the person understands that if he or she is registered to vote in this State, his or her voter registration will be cancelled pursuant to section 3 of this act.

2. ~~At~~ The court must forward any written affirmation that the court receives pursuant to subsection 1 to the Secretary of State and the county clerk of the county in which the person resides not later than 30 calendar days after receipt of the written affirmation in order for the county clerk to

verify pursuant to section 3 of this act that the person is not registered to vote. The court may submit the written affirmation to the Secretary of State and relevant county clerk through the use of electronic transmission if the information will be securely transmitted and stored by the court, Secretary of State and county clerk.

3. ~~4A~~ The information contained on a written affirmation received by a court pursuant to subsection 1 ~~is~~:

(a) Is confidential and is not a public record ~~is~~;

(b) Is not subject to discovery or subpoena in a civil action or criminal prosecution absent the consent of the person who submitted the written affirmation; and

(c) May not be used for purposes other than cancelling the voter registration of the person pursuant to section 3 of this act.

Sec. 9. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,

445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, **and sections 2, 3 and 8 of this act**, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 10. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 6, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsections 2 and 4, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

➡ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that

the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. If a person is authorized to obtain such information pursuant to a contract entered into with the Department and if such information is requested for the purpose of an advisory notice relating to a motor vehicle or the recall of a motor vehicle or for the purpose of providing information concerning the history of a vehicle, the Director may release:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department; or

(b) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

5. Except as otherwise provided in subsections 2, 4 and 6 and NRS **483.291**, 483.294, 483.855 and 483.937, **and section 2 of this act**, the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

6. Except as otherwise provided in paragraph (a) and subsection 7, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

- (1) The safety of drivers of motor vehicles;
- (2) Safety and thefts of motor vehicles;
- (3) Emissions from motor vehicles;
- (4) Alterations of products related to motor vehicles;
- (5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;
- (6) Monitoring the performance of motor vehicles;
- (7) Parts or accessories of motor vehicles;
- (8) Dealers of motor vehicles; or

(9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrol officer or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

7. Except as otherwise provided in paragraph (j) of subsection 6, the Director shall not provide personal information to individuals or companies for the purpose of marketing extended vehicle warranties, and a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 6. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➡ The record must be made available for examination by the Department at all reasonable times upon request.

8. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if the Director reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

9. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the system created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that system.

10. The Director shall not release any information relating to legal presence or any other information relating to or describing immigration status,

nationality or citizenship from a file or record relating to a request for or the issuance of a license, identification card or title or registration of a vehicle to any person or to any federal, state or local governmental entity for any purpose relating to the enforcement of immigration laws.

11. The Director shall adopt such regulations as the Director deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate the person's ability to request information electronically or by written request if the person has submitted to the Department proof of employment or licensure, as applicable, and a signed and notarized affidavit acknowledging that the person:

(a) Has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) Understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) Understands that a record will be maintained by the Department of any information he or she requests; and

(d) Understands that a violation of the provisions of this section is a criminal offense.

12. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

13. As used in this section:

(a) "Information relating to legal presence" means information that may reveal whether a person is legally present in the United States, including, without limitation, whether the driver's license that a person possesses is a driver authorization card, whether the person applied for a driver's license pursuant to NRS 483.290 or 483.291 and the documentation used to prove name, age and residence that was provided by the person with his or her application for a driver's license.

(b) "Personal information" means information that reveals the identity of a person, including, without limitation, his or her photograph, social security number, individual taxpayer identification number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his or her full address, information regarding vehicular accidents or driving violations in which he or she has been involved or other information otherwise affecting his or her status as a driver.

(c) "Vehicle" includes, without limitation, an off-highway vehicle as defined in NRS 490.060.

Assemblyman Stewart moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 461.

Bill read second time.

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

Amendment No. 518.

AN ACT relating to elections; **providing certain remedies and penalties in preelection challenges to the qualifications of a candidate;** increasing the penalty for a candidate ~~{for office}~~ who files certain documents containing a false statement; revising the forms for declarations of candidacy, acceptances of candidacy and **declarations of** residency; requiring certain proofs of identity **and residency** when filing for candidacy; ~~{providing for the payment of certain costs, expenses and attorney's fees for a successful challenge to the residency qualifications of a candidate for office;}~~ **making conforming changes to the definition of "actual residence" for purposes of candidacy;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, there are several different types of preelection court actions that may be brought to challenge a candidate on grounds that the candidate fails to meet any qualification required for the office, including actions for a declaratory judgment or a writ of mandamus. (NRS 281.050, 293.182, 293C.186; DeStefano v. Berkus, 121 Nev. 627, 628-31 (2005); Child v. Lomax, 124 Nev. 600, 604-05 (2008)) Section 1 of this bill provides that in any preelection action where the court finds that a candidate fails to meet any qualification required for the office: (1) the candidate is disqualified from taking office; and (2) the court may order the candidate to pay the attorney's fees and costs of the party who brought the action, including the Attorney General or a district attorney or city attorney.

Existing law : **(1) requires a candidate to file a declaration or acceptance of candidacy before his or her name may appear on a ballot; and (2) provides that a {person} candidate who knowingly and willfully files a declaration or acceptance of candidacy which contains a false statement regarding residency is guilty of a gross misdemeanor. (NRS 293.175, 293.177, 293C.185, 293C.200) Existing law also requires a candidate for election to the Legislature to file a declaration of residency with his or her declaration or acceptance of candidacy. (NRS 293.181) Sections 1.5, 2, 3, {and} 5 and 7 of this bill provide that a candidate who knowingly and willfully {filing} files a declaration of candidacy, acceptance of candidacy or declaration of residency {with any} which contains a false statement is {punishable as} guilty of a category {C} E felony. {Sections 1 and 7 of this bill make conforming changes.}**

Existing law specifies the forms for a declaration or acceptance of candidacy and a declaration of residency and requires certain information to be included on the forms. Existing law also requires a candidate ~~{for office in a primary election to file a declaration or acceptance of candidacy and also, for the office of State Legislator, a declaration of residency, and when filing, the person must}~~ to present the filing officer with one type of acceptable identification or documentation as proof of the candidate's identity and residency. { } when the candidate files a declaration or acceptance of candidacy. (NRS 293.177, 293.181, 293C.185)

Sections 2, 3 and 5 revise the forms for a declaration or acceptance of candidacy and a declaration of residency to include a statement that the {person} candidate understands that knowingly and willfully filing such a {declaration with} document which contains a false statement is a crime punishable as a category {C} E felony. { } and also subjects the candidate to a civil action disqualifying the candidate from taking office and making the candidate liable upon order of the court to pay the attorney's fees and costs of the party who brings the action. Sections 2 and 5 also require the candidate to present the filing officer with two {forms} types of acceptable identification and documentation as proof of the candidate's identity and residency.

~~{ Existing law allows an elector to challenge the qualifications of a person filing for candidacy. (NRS 293.182, 293C.186) Sections 4 and 6 of this bill provide that if a court finds that the person knowingly and willfully made a false statement regarding residency when filing for candidacy, the person is required to pay the costs, expenses and attorney's fees incurred by the Attorney General, district attorney or city attorney, as applicable.~~

~~Existing law authorizes a district court to determine whether a candidate meets the residency requirement in an action for declaratory judgment. (NRS 281.050) Section 8 of this bill provides that if the district court finds that the person knowingly and willfully made a false statement regarding residency when filing for candidacy, the person is required to pay the costs, expenses and attorney's fees of the prevailing party.~~

Existing law defines the term "actual residence" to mean the place where a candidate is legally domiciled and maintains a permanent habitation, and when a candidate maintains more than one place of permanent habitation, the place designated by the candidate as his or her principal permanent habitation is deemed to be the candidate's actual residence. (NRS 281.050) The Nevada Supreme Court has held that the place designated by the candidate as his or her principal permanent habitation must be the place where the candidate actually resides and is legally domiciled in order for the candidate to be eligible to the office. (Williams v. Clark County Dist. Att'y, 118 Nev. 473, 484-86 (2002); Chachas v. Miller, 120 Nev. 51, 53-56 (2004)) Section 8 of this bill amends existing law to reflect the Supreme Court's holding.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any other remedy or penalty provided by law, if a court of competent jurisdiction finds in any preelection action that a person who is a candidate for any office fails to meet any qualification required for the office pursuant to the Constitution or laws of this State:

(a) The person is disqualified from entering upon the duties of the office for which he or she filed a declaration of candidacy or acceptance of candidacy; and

(b) The court may order the person to pay the reasonable attorney's fees and costs of the party who brought the action, including, without limitation, the Attorney General or a district attorney or city attorney.

2. The provisions of this section apply to any preelection action brought to challenge a person who is a candidate for any office on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or laws of this State, including, without limitation, any action brought pursuant to NRS 281.050, 293.182 or 293C.186 or any action brought for:

(a) Declaratory or injunctive relief pursuant to chapter 30 or 33 of NRS;

(b) Writ relief pursuant to chapter 34 of NRS; or

(c) Any other legal or equitable relief.

~~{Section 1.}~~ **Sec. 1.5.** NRS 293.1755 is hereby amended to read as follows:

293.1755 1. In addition to any other requirement provided by law, no person may be a candidate for any office unless, for at least the 30 days immediately preceding the date of the close of filing of declarations of candidacy or acceptances of candidacy for the office which the person seeks, the person has, in accordance with NRS 281.050, actually, as opposed to constructively, resided in the State, district, county, township or other area prescribed by law to which the office pertains and, if elected, over which he or she will have jurisdiction or will represent.

2. ~~Any person who knowingly and willfully files an acceptance of candidacy or~~ **a declaration of candidacy or acceptance of candidacy which contains a false statement** ~~{in this respect}~~ **regarding the person's residency in violation of this section is guilty of a** ~~{gross misdemeanor.}~~ **category E felony and shall be punished as provided in NRS 193.130.**

3. The provisions of this section do not apply to candidates for the office of district attorney.

Sec. 2. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person

named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held ~~not~~ **and not** later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in March of the year in which the election is to be held ~~not~~ **and not** later than 5 p.m. on the second Friday after the first Monday in March.

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the Party nomination for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am registered as a member of the Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since December 31 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may

hold the office; *that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is a crime punishable as a category ~~C~~ E felony as provided in NRS 193.130 ~~##~~ and also subjects me to a civil action disqualifying me from entering upon the duties of the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action;* and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this day of the month of of the year

.....
Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but

not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; ***that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is a crime punishable as a category ~~C~~ E felony as provided in NRS 193.130, and also subjects me to a civil action disqualifying me from entering upon the duties of the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action;*** and ***that I understand that*** my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this day of the month of of the year

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if ~~the~~ ***the candidate fails to comply with the following:***

(a) The ***candidate shall not list the*** candidate's address ~~is listed~~ as a post office box unless a street address has not been assigned to his or her residence; ~~for~~ ***and***

(b) The candidate ~~does not~~ ***shall*** present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; ~~for~~ ***and***

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number, ~~for~~ driver's license or identification card number **or account number** of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

8. Any person who knowingly and willfully files a declaration of candidacy or acceptance of candidacy which contains a false statement in violation of this section is guilty of a category ~~FC~~ E felony and shall be punished as provided in NRS 193.130.

Sec. 3. NRS 293.181 is hereby amended to read as follows:

293.181 1. A candidate for the office of State Senator, Assemblyman or Assemblywoman must execute and file with his or her declaration of candidacy or acceptance of candidacy a declaration of residency which must be in substantially the following form:

I, the undersigned, do swear or affirm under penalty of perjury that I have been a citizen resident of this State as required by NRS 218A.200 ; ***that I***

understand that knowingly and willfully filing a declaration of residency which contains a false statement is a crime punishable as a category ~~C~~ E felony as provided in NRS 193.130 ~~##~~ and also subjects me to a civil action disqualifying me from entering upon the duties of the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action; and *that I* have actually, as opposed to constructively, resided at the following residence or residences since November 1 of the preceding year:

.....	
Street Address	Street Address
.....	
City or Town	City or Town
.....	
State	State
From To	From To
Dates of Residency	Dates of Residency
.....	
Street Address	Street Address
.....	
City or Town	City or Town
.....	
State	State
From To	From To
Dates of Residency	Dates of Residency

(Attach additional sheet or sheets of residences as necessary)

2. Each address of a candidate which must be included in the declaration of residency pursuant to subsection 1 must be the street address of the residence where the candidate actually, as opposed to constructively, resided or resides in accordance with NRS 281.050, if one has been assigned. The declaration of residency must not be accepted for filing if any of the candidate's addresses are listed as a post office box unless a street address has not been assigned to the residence.

3. *Any person who knowingly and willfully files a declaration of residency which contains a false statement in violation of this section is guilty of a category ~~C~~ E felony and shall be punished as provided in NRS 193.130.*

Sec. 4. NRS 293.182 is hereby amended to read as follows:

293.182 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than 5 working days after the last day the person may withdraw his or her candidacy pursuant to NRS 293.202, an elector may file with the filing officer for the

office a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or ~~[a statute]~~ laws of this State ~~. [, including, without limitation, a requirement concerning age or residency.]~~ Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and ~~[court]~~ costs of the ~~[challenged person.]~~ person who is being challenged.

2. A challenge filed pursuant to subsection 1 must:

- (a) Indicate each qualification the person fails to meet;
- (b) Have attached all documentation and evidence supporting the challenge; and

(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1:

(a) The Secretary of State shall immediately transmit the challenge to the Attorney General.

(b) A filing officer other than the Secretary of State shall immediately transmit the challenge to the district attorney.

4. If the Attorney General or district attorney determines that probable cause exists to support the challenge, the Attorney General or district attorney shall, not later than 5 working days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the Constitution or ~~the statute]~~ laws of this State, or if the person fails to appear at the hearing:

(a) The name of the person must not appear on any ballot for the election for the office for which the person filed the declaration of candidacy or acceptance of candidacy; and

(b) The person is ~~[disqualified from entering upon the duties of the office for which he or she filed the declaration of candidacy or acceptance of candidacy.]~~ subject to the provisions of section 1 of this act.

6. ~~[If, at the hearing, the court determines that the person fails to meet a qualification required for office concerning residency and the person knowingly and willfully filed a declaration of candidacy or acceptance of candidacy which contained a false statement in this respect, the person shall pay the costs, expenses and attorney's fees incurred by the Attorney General or district attorney.]~~

~~7.1~~ If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and ~~the court~~ costs of the ~~challenged person.~~ **person who was challenged.**

Sec. 5. NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS 293C.115 and 293C.190, a name may not be printed on a ballot to be used at a primary city election unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than 70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.

2. A declaration of candidacy required to be filed by this section must be in substantially the following form:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

City of

For the purpose of having my name placed on the official ballot as a candidate for the office of, I, ..., the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; **that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is a crime punishable as a category ~~C~~ E felony as provided in NRS 193.130 ~~for~~ and also subjects me to a civil action disqualifying me from entering upon the duties of**

the office and making me liable upon order of the court to pay the reasonable attorney's fees and costs of the party who brings the action;
 and **that I understand that** my name will appear on all ballots as designated in this declaration.

.....
 (Designation of name)

.....
 (Signature of candidate for office)

Subscribed and sworn to before me
 this day of the month of of the year

.....
 Notary Public or other person
 authorized to administer an oath

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if ~~the~~ **the candidate fails to comply with the following:**

(a) The **candidate shall not list the** candidate's address ~~is listed~~ as a post office box unless a street address has not been assigned to the residence; ~~for~~ **and**

(b) The candidate ~~does not~~ **shall** present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; ~~for~~ **and**

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number, ~~for~~ driver's license or identification card number **or account number** of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering

to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the city clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.

6. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the city clerk:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.

7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

8. Any person who knowingly and willfully files a declaration of candidacy or acceptance of candidacy which contains a false statement in violation of this section is guilty of a category ~~C~~ E felony and shall be punished as provided in NRS 193.130.

Sec. 6. NRS 293C.186 is hereby amended to read as follows:

293C.186 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than 5 working days after the last day the person may withdraw his or her candidacy pursuant to NRS 293C.195, an elector may file with the city clerk a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the constitution or ~~the statute~~ **laws** of this State. ~~[including, without limitation, a requirement concerning age or residency.]~~ Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and ~~court~~ costs of the ~~challenged person.~~ **person who is being challenged.**

2. A challenge filed pursuant to subsection 1 must:

(a) Indicate each qualification the person fails to meet;

(b) Have attached all documentation and evidence supporting the challenge; and

(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1, the city clerk shall immediately transmit the challenge to the city attorney.

4. If the city attorney determines that probable cause exists to support the challenge, the city attorney shall, not later than 5 working days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the constitution or ~~the statute~~ laws of this State, or if the person fails to appear at the hearing:

(a) The name of the person must not appear on any ballot for the election for the office for which the person filed the declaration of candidacy or acceptance of candidacy; and

(b) The person is ~~[disqualified from entering upon the duties of the office for which he or she filed the declaration of candidacy or acceptance of candidacy.]~~ subject to the provisions of section 1 of this act.

6. ~~[If, at the hearing, the court determines that the person fails to meet a qualification required for office concerning residency and the person knowingly and willfully filed a declaration or acceptance of candidacy which contained a false statement in this respect, the person shall pay the costs, expenses and attorney's fees incurred by the city attorney.]~~

~~—7—~~ If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and ~~[court]~~ costs of the ~~[challenged person.]~~ person who was challenged.

Sec. 7. NRS 293C.200 is hereby amended to read as follows:

293C.200 1. In addition to any other requirement provided by law, no person may be a candidate for a city office unless, for at least the 30 days immediately preceding the date of the close of filing of declarations or acceptances of candidacy for the office that the person seeks, the person has in accordance with NRS 281.050, actually, as opposed to constructively, resided in the city or other area prescribed by law to which the office pertains and, if elected, over which he or she will have jurisdiction or which he or she will represent.

2. Any person who knowingly and willfully files a declaration of candidacy or an acceptance of candidacy [that] which contains a false statement [in this respect] regarding the person's residency in violation of this section is guilty of a [gross misdemeanor.] category E felony and shall be punished as provided in NRS 193.130.

Sec. 8. NRS 281.050 is hereby amended to read as follows:

281.050 1. The residence of a person with reference to his or her eligibility to any office is the person's actual residence within the State, ~~for~~ county, ~~or~~ district, ward, subdistrict or any other unit prescribed by law, as the case may be, during all the period for which residence is claimed by the person. If any person absents himself or herself from the jurisdiction of that person's residence with the intention in good faith to return without delay and continue such residence, the period of absence must not be considered in determining the question of residence.

2. If a person who has filed ~~as a candidate~~ a declaration of candidacy or acceptance of candidacy for any elective office moves the person's residence out of the State, county, district, ward, subdistrict or any other unit prescribed by law ~~for which the person is a candidate and~~, as the case may be, in which the person is required actually, as opposed to constructively, to reside ~~in~~ in order for the person to be eligible to the office, a vacancy is created thereby and the appropriate action for filling the vacancy must be taken. A person shall be deemed to have moved the person's residence for the purposes of this section if:

(a) The person has acted affirmatively to remove himself or herself from one place; and

(b) The person has an intention to remain in another place.

3. The district court has jurisdiction to determine the question of residence in an action for declaratory judgment.

4. If, in ~~any~~ ~~any~~ preelection action for declaratory judgment, the district court ~~determines~~ finds that a person ~~knowingly and willfully misrepresented the person's actual residence when filing as a candidate for office, the person shall pay the costs, expenses and attorney's fees of the prevailing party.~~ who has filed a declaration of candidacy or acceptance of candidacy for any elective office fails to meet any qualification concerning residence required for the office pursuant to the Constitution or laws of this State, the person is subject to the provisions of section 1 of this act.

5. As used in this section ~~the "actual"~~ :

(a) "Actual residence" means the place of permanent habitation where a person actually resides and is legally domiciled, ~~and maintains a permanent habitation.~~ If the person maintains more than one ~~such~~ place of permanent habitation, the place the person declares to be the person's principal permanent habitation when filing a declaration of candidacy or ~~affidavit pursuant to NRS 293.177 or 293C.185 shall be deemed to~~ acceptance of candidacy for any elective office must be the ~~person's actual residence.~~ place where the person actually resides and is legally domiciled in order for the person to be eligible to the office.

(b) "Declaration of candidacy or acceptance of candidacy" means a declaration of candidacy or acceptance of candidacy filed pursuant to chapter 293 or 293C of NRS.

Sec. 9. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory

administrative tasks necessary to carry out the provisions of this act, and on January 1, 2016, for all other purposes.

Assemblyman Stewart moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 4.

Bill read second time.

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

Amendment No. 193.

SUMMARY—~~{Deletes}~~ **Revises** provisions ~~{specifying the population of a county in which}~~ **relating to the operation of** a winery ~~{may engage in certain activities.}~~ **in this State.** (BDR 52-228)

AN ACT relating to wineries; ~~{deleting}~~ **revising** provisions ~~{specifying the population of a county in which}~~ **relating to the operation of** a winery ~~{may engage in certain activities.}~~ **in this State;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a winery which is located in a county whose population is 100,000 or less (currently all counties other than Clark and Washoe Counties) and is federally bonded may: (1) import wine or juice from a bonded winery in another state for fermentation, mixing with other wine or aging in this State; (2) sell at retail or serve by the glass on its premises and at one other location any wine produced, blended or aged by the winery if the wine sold at that other location does not exceed a certain amount; and (3) serve any alcoholic beverage by the glass on its premises. (NRS 597.240) This bill deletes the restriction concerning the population of the county in which such a winery is located ~~{,}~~, **and authorizes a winery located in any county in this State to import wine or juice for the purpose of producing, bottling, blending and aging wine. This bill imposes certain requirements concerning the percentage of wine produced, blended or aged by certain wineries that must be from fruit grown in this State. This bill also imposes certain restrictions governing the sale by a winery of wine produced by the winery and other alcoholic beverages. Additionally, this bill authorizes the State Board of Agriculture to adopt regulations relating to certain requirements established by the Federal Government for the labeling of bottles of wine.**

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

Section 1. NRS 597.210 is hereby amended to read as follows:

597.210 1. Except as otherwise provided in subsection 2 , ~~and~~
~~NRS 597.240,}~~ a person engaged in business as a supplier or engaged in the

business of manufacturing, blending or bottling alcoholic beverages within or without this State shall not:

(a) Engage in the business of importing, wholesaling or retailing alcoholic beverages; or

(b) Operate or otherwise locate his or her business on the premises or property of another person engaged in the business of importing, wholesaling or retailing alcoholic beverages.

2. This section does not:

(a) Preclude any person engaged in the business of importing, wholesaling or retailing alcoholic beverages from owning less than 2 percent of the outstanding ownership equity in any organization which manufactures, blends or bottles alcoholic beverages.

(b) Prohibit a person engaged in the business of rectifying or bottling alcoholic beverages from importing neutral or distilled spirits in bulk only for the express purpose of rectification pursuant to NRS 369.415.

(c) Prohibit a person from operating a brew pub pursuant to NRS 597.230.

(d) Prohibit a person from operating an instructional wine-making facility pursuant to NRS 597.245.

(e) Prohibit a person from operating a craft distillery pursuant to NRS 597.235.

(f) Prohibit a person from operating a winery pursuant to NRS 597.240.

Sec. 2. NRS 597.240 is hereby amended to read as follows:

597.240 1. A winery ~~located in a county whose population is 100,000 or less, if it~~ ***that*** is federally bonded ~~and~~ ***and permitted by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury and that has been issued a winemaker's license pursuant to NRS 369.200*** may:

(a) ***Produce, bottle, blend and age wine.***

~~(b)~~ ***(b)*** Import wine or juice from a ~~bonded~~ winery ***that is located*** in another state ~~and that is federally bonded and permitted by the Alcohol and Tobacco Tax and Trade Bureau,~~ to be fermented into wine or, if already fermented, to be mixed with other wine or aged in a suitable cellar, or both.

~~(b)~~ ***2. A winery that has been issued a winemaker's license pursuant to NRS 369.200 on or before September 30, 2015, may:***

~~(a)~~ ***(a)*** Sell at retail or serve by the glass, on its premises and at one other location, wine produced, blended or aged by the winery. The amount of wine sold at a location other than on the premises of the winery may not exceed 50 percent of the total volume of the wine sold by the winery.

~~(c)~~ ***(b)*** Serve by the glass, on its premises, any alcoholic beverage.

~~2.~~ ***3. A winery that is issued a winemaker's license pursuant to NRS 369.200 on or after October 1, 2015:***

(a) If 25 percent or more of the wine produced, blended or aged by the winery is produced, blended or aged from fruit grown in this State, may sell at retail or serve by the glass, on its premises, wine produced, blended or aged by the winery.

(b) If less than 25 percent of the wine produced, blended or aged by the winery is produced, blended or aged from fruit grown in this State, may sell at retail or serve by the glass, on its premises, not more than 1,000 cases of wine produced, blended or aged by the winery per calendar year.

4. The owner or operator of a winery shall not:

(a) Except as otherwise provided in paragraph (b) of subsection 2, sell alcoholic beverages on the premises of the winery other than wine produced, blended or aged by the winery.

(b) Produce, blend or age wine at any location other than on the premises of the winery.

5. The State Board of Agriculture may adopt regulations for the purposes of ensuring that a winery is in compliance with any requirements established by the Federal Government for labeling bottles of wine produced, blended or aged by the winery.

6. For the purposes of this section, an instructional wine-making facility is not a winery. ~~{This section does not prohibit a person from operating an instructional wine-making facility in any county.}~~

Sec. 3. Section 2 of this act is hereby amended to read as follows:

597.240 1. A winery that is federally bonded and permitted by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of the Treasury and that has been issued a winemaker's license pursuant to NRS 369.200 may:

(a) Produce, bottle, blend and age wine.

(b) Import wine or juice from a winery that is located in another state and that is federally bonded and permitted by the Alcohol and Tobacco Tax and Trade Bureau, to be fermented into wine or, if already fermented, to be mixed with other wine or aged in a suitable cellar, or both.

2. A winery that has been issued a winemaker's license pursuant to NRS 369.200 on or before September 30, 2015, may:

(a) ~~{Sell}~~ **Within the limits prescribed by subsection 3, sell** at retail or serve by the glass, on its premises and at one other location, wine produced, blended or aged by the winery. The amount of wine sold at a location other than on the premises of the winery may not exceed 50 percent of the total volume of the wine sold by the winery.

(b) Serve by the glass, on its premises, any alcoholic beverage.

3. A winery that is issued a winemaker's license pursuant to NRS 369.200 ~~on or after October 1, 2015;~~

(a) If 25 percent or more of the wine produced, blended or aged by the winery is produced, blended or aged from fruit grown in this State, may sell at retail or serve by the glass, on its premises ~~{,}~~ **and, if applicable, at one other location,** wine produced, blended or aged by the winery.

(b) If less than 25 percent of the wine produced, blended or aged by the winery is produced, blended or aged from fruit grown in this State, may sell at retail or serve by the glass, on its premises ~~{,}~~ **and, if**

applicable, at one other location, not more than 1,000 cases of wine produced, blended or aged by the winery per calendar year.

4. The owner or operator of a winery shall not:

(a) Except as otherwise provided in paragraph (b) of subsection 2, sell alcoholic beverages on the premises of the winery other than wine produced, blended or aged by the winery.

(b) Produce, blend or age wine at any location other than on the premises of the winery.

5. The State Board of Agriculture may adopt regulations for the purposes of ensuring that a winery is in compliance with any requirements established by the Federal Government for labeling bottles of wine produced, blended or aged by the winery.

6. For the purposes of this section, an instructional wine-making facility is not a winery.

Sec. 4. 1. This section and sections 1 and 2 of this act become effective on October 1, 2015.

2. Section 3 of this act becomes effective on October 1, 2025.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 5.

Bill read second time.

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

Amendment No. 507.

AN ACT relating to public welfare; requiring the Aging and Disability Services Division of the Department of Health and Human Services to **enter into an agreement with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to provide long-term support to persons with intellectual disabilities and persons with related conditions; requiring the Aging and Disability Services Division to** provide preferences for potential providers of jobs and day training services in issuing certificates authorizing the provision of such services and in entering into agreements concerning the provision of such services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to administer certain programs concerning employment and independent living for persons with disabilities. (NRS 232.945) Existing law also requires the Aging and Disability Services Division of the Department of Health and Human Services to regulate the provision of jobs and day training services and supported living arrangement services to persons with disabilities and persons with related conditions. (NRS 435.130-435.339) Section 1 of this

bill requires the Aging and Disability Services Division to enter into a cooperative agreement with the Rehabilitation Division to provide long-term support to persons with intellectual disabilities and persons with related conditions.

Existing law requires a natural person and certain entities to obtain a certificate from the Aging and Disability Services Division ~~for the Department of Health and Human Services~~ before providing jobs and day training services in this State, which are services provided to persons with intellectual disabilities or persons with related conditions to enhance self-sufficiency and success in employment. (NRS 435.176, 435.225) Existing law also authorizes the **Aging and Disability Services** Division to enter into agreements with public and private agencies as it deems necessary for the provision of jobs and day training services. (NRS 435.220)

~~{This}~~ **Sections 1.5 and 2 of this bill {requires} require the Aging and Disability Services** Division to give preference to potential providers of jobs and day training services who will ~~employ~~ **provide** persons with intellectual disabilities or persons with related conditions **with training and experience leading to employment that: (1) is comparable to employment for persons without intellectual disabilities and persons without related conditions; and (2) pays at or above the state minimum wage.** The **Aging and Disability Services** Division is required to give such a preference when: (1) issuing certificates which authorize the provisions of jobs and day training services; and (2) entering into agreements with public and private agencies for the provision of jobs and day training services. **Sections 1.5 and 2 also require each application for the issuance or renewal of such a certificate and each such agreement to include a provision that employment is the primary service option for all adults of working age.**

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

Section 1. Chapter 435 of NRS is hereby amended by adding thereto a new section to read as follows:

The Division shall enter into a cooperative agreement with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to provide long-term support to persons with intellectual disabilities and persons with related conditions, including, without limitation, jobs and day training services and supported living arrangement services. The agreement must include a provision stating that employment is the preferred service option for all adults of working age.

~~{Section 1.}~~ **Sec. 1.5.** NRS 435.220 is hereby amended to read as follows:

435.220 1. The Division shall adopt regulations governing jobs and day training services, including, without limitation, regulations that set forth:

(a) Standards for the provision of quality care and training by providers of jobs and day training services;

(b) The requirements for the issuance and renewal of a certificate; and
 (c) The rights of consumers of jobs and day training services, including, without limitation, the right of a consumer to file a complaint and the procedure for filing the complaint.

2. The Division may enter into such agreements with public and private agencies as it deems necessary for the provision of jobs and day training services. Any such agreements must include a provision stating that employment is the preferred service option for all adults of working age.

3. For the purpose of entering into an agreement described in subsection 2, if the qualifications of more than one agency are equal, the Division shall give preference to the agency ~~who~~ that will ~~employ~~ provide persons with intellectual disabilities or persons with related conditions with training and experience that demonstrates a progression of measurable skills that is likely to lead to competitive employment outcomes that provide employment that:

(a) Is comparable to employment of persons without intellectual disabilities and persons without related conditions; and

(b) Pays at or above the minimum wage prescribed by regulation of the Labor Commissioner pursuant to NRS 608.250.

Sec. 2. NRS 435.225 is hereby amended to read as follows:

435.225 1. A nonprofit organization, state or local government or agency thereof shall not provide jobs and day training services in this State without first obtaining a certificate from the Division.

2. A natural person other than a person who is employed by an entity listed in subsection 1 shall not provide jobs and day training services in this State without first obtaining a certificate from the Division.

3. For the purpose of issuing a certificate pursuant to this section, if the qualifications of more than one applicant are equal, the Division shall give preference to the natural person who, or the nonprofit organization, state or local government or agency thereof that, will ~~employ~~ provide persons with intellectual disabilities or persons with related conditions with training and experience that demonstrates a progression of measurable skills that is likely to lead to competitive employment outcomes that provide employment that:

(a) Is comparable to employment of persons without intellectual disabilities and persons without related conditions; and

(b) Pays at or above the minimum wage prescribed by regulation of the Labor Commissioner pursuant to NRS 608.250.

4. Each application for the issuance or renewal of a certificate issued pursuant to this section must include a provision stating that employment is the preferred service option for all adults of working age.

Sec. 3. This act becomes effective on July 1, 2015.

Assemblyman Oscarson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 6.

Bill read second time.

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

Amendment No. 370.

AN ACT relating to autism spectrum disorders; removing certification of autism behavior interventionists by the Board of Psychological Examiners; ~~sunsetting these changes unless legislation providing for an autism behavior interventionist to obtain a certain other certification is enacted; removing~~ **requiring an autism behavior interventionist to be registered by a certain national board; revising** the cap on the amount of required insurance coverage for certain treatment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the certification of autism behavior interventionists by the Board of Psychological Examiners. (NRS 641.0204, 641.172) ~~Sections 1-11 and 25 of this bill remove this certification. Section 11 preserves the requirement, however, that an autism behavior interventionist work under the supervision of a licensed psychologist, licensed behavior analyst or licensed assistant behavior analyst.~~ **and instead require an autism behavior interventionist to be registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc.**

Existing law requires certain insurers to provide coverage of screening for and diagnosis of autism spectrum disorders and of treatment for autism spectrum disorders for certain persons who are covered by a policy of insurance and requires certain other insurers to provide an option for such coverage. Such required coverage may include behavioral therapy provided by a certified behavior interventionist who is properly supervised. (NRS 287.0276, 689A.0435, 689B.0335, 689C.1655, 695C.1717, 695G.1645) ~~Because that certification has been removed from statute, sections 12, 14, 16, 18, 20 and 22 of this bill remove the requirement that such therapy be provided by a certified autism behavior interventionist.~~ **Sections 12, 14, 16, 18, 20 and 22 of this bill remove the requirement that such therapy be provided by a certified autism behavior interventionist certified by the Board as a condition to required coverage and the required option for coverage. Sections 12, 14, 16, 18, 20 and 22 preserve the requirement, however, that such therapy be provided by an autism behavior interventionist who is supervised by a licensed psychologist, licensed behavior analyst or licensed assistant behavior analyst before coverage or the option for coverage is required. Sections 12, 14, 16, 18, 20 and 22 also remove the requirement that such therapy be provided by an autism behavior interventionist registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., as a condition to such requirements. Beginning on January 1, 2017, sections 13, 15, 17, 19, 21, 23 and 26 of this bill increase the \$36,000 cap on such coverage.**

~~Section 26 of this bill sunsets the statutory changes that remove certification of autism behavior interventionists by the Board, thereby re-enacting such provisions on July 1, 2017. Sections 13, 15, 17, 19, 21, 23 and 26 of this bill re-enact the requirement that behavior therapy be provided by a certified autism behavior interventionist as a condition to required coverage and the required option for coverage on January 1, 2018, thereby providing a 6 month period in which a person may obtain certification before certification will affect insurance coverage.~~

~~Section 26 provides, however, for the permanent removal of the certification of autism behavior interventionists if, on or before July 1, 2017, legislation is enacted to provide for the certification of an autism behavior interventionist as a Registered Behavior Technician or an equivalent certification by the Behavior Analyst Certification Board, Inc., or its successor organization.} to the actuarial equivalent of \$72,000.~~

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

Section 1. NRS 641.0204 is hereby amended to read as follows:

641.0204 “Autism behavior interventionist” means a person who ~~is~~ ~~certified as an autism behavior interventionist by the Board.}~~ **registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:**

1. ***A licensed psychologist;***
2. ***A licensed behavior analyst; or***
3. ***A licensed assistant behavior analyst.***

Sec. 2. NRS 641.100 is hereby amended to read as follows:

641.100 The Board may make and promulgate rules and regulations not inconsistent with the provisions of this chapter governing its procedure, the examination ~~{}~~ **and** licensure ~~{and certification}~~ of applicants, the granting, refusal, revocation or suspension of licenses, ~~{and certificates,}~~ the practice of psychology and the practice of applied behavior analysis.

Sec. 3. NRS 641.110 is hereby amended to read as follows:

641.110 The Board may, under the provisions of this chapter:

1. Examine and pass upon the qualifications of the applicants for licensure ~~. {and certification.}~~
2. License ~~{and certify}~~ qualified applicants.
3. Revoke or suspend licenses ~~. {and certificates.}~~
4. Collect all fees and make disbursements pursuant to this chapter.

Sec. 4. NRS 641.175 is hereby amended to read as follows:

641.175 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license ~~{or certificate}~~ shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license ~~for certificate~~ shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Board.

3. A license ~~for certificate~~ may not be issued or renewed by the Board if the applicant:

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

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

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

Sec. 5. NRS 641.220 is hereby amended to read as follows:

641.220 1. To renew a license ~~for certificate~~ issued pursuant to this chapter, each person must, on or before the first day of January of each odd-numbered year:

(a) Apply to the Board for renewal;

(b) Pay the biennial fee for the renewal of a license ; ~~for certificate;~~

(c) Submit evidence to the Board of completion of the requirements for continuing education; and

(d) Submit all information required to complete the renewal.

2. Upon renewing his or her license, a psychologist shall declare his or her areas of competence, as determined in accordance with NRS 641.112.

3. The Board shall, as a prerequisite for the renewal of a license , ~~for certificate,~~ require each holder to comply with the requirements for continuing education adopted by the Board.

Sec. 6. NRS 641.230 is hereby amended to read as follows:

641.230 The Board may suspend or revoke a person's license as a psychologist, behavior analyst or assistant behavior analyst , ~~for certificate as an autism behavior interventionist,~~ place the person on probation, require remediation for the person or take any other action specified by regulation if the Board finds by substantial evidence that the person has:

1. Been convicted of a felony relating to the practice of psychology or the practice of applied behavior analysis.

2. Been convicted of any crime or offense that reflects the inability of the person to practice psychology or applied behavior analysis with due regard for the health and safety of others.

3. Been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

4. Engaged in gross malpractice or repeated malpractice or gross negligence in the practice of psychology or the practice of applied behavior analysis.

5. Aided or abetted the practice of psychology by a person not licensed by the Board.

6. Made any fraudulent or untrue statement to the Board.

7. Violated a regulation adopted by the Board.

8. Had a license to practice psychology or a license or certificate to practice applied behavior analysis suspended or revoked or has had any other disciplinary action taken against the person by another state or territory of the United States, the District of Columbia or a foreign country, if at least one of the grounds for discipline is the same or substantially equivalent to any ground contained in this chapter.

9. Failed to report to the Board within 30 days the revocation, suspension or surrender of, or any other disciplinary action taken against, a license or certificate to practice psychology or applied behavior analysis issued to the person by another state or territory of the United States, the District of Columbia or a foreign country.

10. Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of or conspired to violate a provision of this chapter.

11. Performed or attempted to perform any professional service while impaired by alcohol, drugs or by a mental or physical illness, disorder or disease.

12. Engaged in sexual activity with a patient or client.

13. Been convicted of abuse or fraud in connection with any state or federal program which provides medical assistance.

14. Been convicted of submitting a false claim for payment to the insurer of a patient or client.

15. Operated a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility was suspended or revoked; or

(b) An act or omission occurred which resulted in the suspension or revocation of the license pursuant to NRS 449.160.

➤ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 7. NRS 641.232 is hereby amended to read as follows:

641.232 The Board shall adopt regulations that establish the grounds for disciplinary action for a licensed behavior analyst ~~or~~ licensed assistant behavior analyst ~~. for certified autism behavior interventionist.~~

Sec. 8. NRS 641.240 is hereby amended to read as follows:

641.240 1. If the Board, a panel of its members or a hearing officer appointed by the Board finds a person guilty in a disciplinary proceeding, it may:

- (a) Administer a public reprimand.
- (b) Limit the person's practice.
- (c) Suspend the person's license ~~for certificate~~ for a period of not more than 1 year.
- (d) Revoke the person's license ~~. for certificate.~~
- (e) Impose a fine of not more than \$5,000.
- (f) Revoke or suspend the person's license ~~for certificate~~ and impose a monetary penalty.
- (g) Suspend the enforcement of any penalty by placing the person on probation. The Board may revoke the probation if the person does not follow any conditions imposed.
- (h) Require the person to submit to the supervision of or counseling or treatment by a person designated by the Board. The person named in the complaint is responsible for any expense incurred.
- (i) Impose and modify any conditions of probation for the protection of the public or the rehabilitation of the probationer.
- (j) Require the person to pay for the costs of remediation or restitution.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 9. NRS 641.242 is hereby amended to read as follows:

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

2. The Board shall reinstate a license ~~for certificate~~ issued pursuant to this chapter that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license ~~for certificate~~ was suspended stating that the person whose license ~~for certificate~~ was suspended

has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 10. NRS 641.370 is hereby amended to read as follows:

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the national examination, in addition to the actual cost to the Board of the examination	\$100
For any other examination required pursuant to the provisions of subsection 1 of NRS 641.180, in addition to the actual costs to the Board of the examination	100
For the issuance of an initial license ~~for certificate~~	25
For the biennial renewal of a license of a psychologist	500
For the biennial renewal of a license of a licensed behavior analyst	400
For the biennial renewal of a license of a licensed assistant behavior analyst	275
~~For the biennial renewal of a certificate of a certified autism behavior interventionist~~	~~175~~
For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license	100
For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology	300
For the registration of a nonresident to practice as a consultant	100

2. An applicant who passes the national examination and any other examination required pursuant to the provisions of subsection 1 of NRS 641.180 and who is eligible for a license as a psychologist shall pay the biennial fee for the renewal of a license, which must be prorated for the period from the date the license is issued to the end of the biennium.

3. An applicant who passes the examination and is eligible for a license as a behavior analyst or assistant behavior analyst ~~for a certificate as a autism behavior interventionist~~ shall pay the biennial fee for the renewal of a license, ~~for certificate,~~ which must be prorated for the period from the date the license ~~for certificate~~ is issued to the end of the biennium.

4. In addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any other incidental service it provides. The fee must not exceed the cost to provide the service.

Sec. 11. NRS 641.395 is hereby amended to read as follows:

641.395 1. A licensed assistant behavior analyst shall not provide or supervise ~~behavior~~ **behavioral** therapy except under the supervision of:

- (a) A licensed psychologist; or
- (b) A licensed behavior analyst.

2. ~~A certified~~ **An** autism behavior interventionist shall not provide ~~behavior~~ **behavioral** therapy except under the supervision of:

- (a) A licensed psychologist;
- (b) A licensed behavior analyst; or
- (c) A licensed assistant behavior analyst.

Sec. 12. NRS 287.0276 is hereby amended to read as follows:

287.0276 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the plan of self-insurance under the age of 18 ~~years~~ or, if enrolled in high school, until the person reaches the age of 22 ~~+~~ **years.**

2. Coverage provided under this section is subject to :

(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and

(b) ~~Copayment, [copayment]~~ deductible and coinsurance provisions and any other general exclusion or limitation of a plan of self-insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan of self-insurance; or

(b) Refuse to issue a plan of self-insurance or cancel a plan of self-insurance solely because the person applying for or covered by the plan of self-insurance uses or may use in the future any of the services listed in subsection 1.

4. Except as **otherwise** provided in subsections 1 and 2, a governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, ~~behavior~~ **behavioral** therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

↪ A governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance may request a copy of and review a treatment plan created pursuant to this subsection.

6. A plan of self-insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the plan of self-insurance or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) ***“Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:***

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Development Disorder Not Otherwise Specified.

~~{(e)}~~ (d) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or ~~{certified}~~ autism behavior interventionist.

~~{(d)}~~ “Certified autism behavior interventionist” means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

~~— (1) A licensed psychologist;~~

~~— (2) A licensed behavior analyst; or~~

~~— (3) A licensed assistant behavior analyst.]~~

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides ~~behavior~~ **behavioral** therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) “Screening for autism spectrum disorders” means all medically appropriate assessments, evaluations or tests to diagnose whether a person has an autism spectrum disorder.

(m) “Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 13. NRS 287.0276 is hereby amended to read as follows:

287.0276 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the plan of self-insurance under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of ~~[\$26,000]~~ **the actuarial equivalent of \$72,000** per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a plan of self-insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan of self-insurance; or

(b) Refuse to issue a plan of self-insurance or cancel a plan of self-insurance solely because the person applying for or covered by the plan of self-insurance uses or may use in the future any of the services listed in subsection 1.

4. Except as otherwise provided in subsections 1 and 2, a governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➡ A governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance may request a copy of and review a treatment plan created pursuant to this subsection.

6. A plan of self-insurance subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the plan of self-insurance or the renewal which is in conflict with subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada

that provides health insurance through a plan of self-insurance to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) “Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:

- (1) A licensed psychologist;
- (2) A licensed behavior analyst; or
- (3) A licensed assistant behavior analyst.

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Development Disorder Not Otherwise Specified.

(d) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or autism behavior interventionist.

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) "Screening for autism spectrum disorders" means all medically appropriate assessments, evaluations or tests to diagnose whether a person has an autism spectrum disorder.

(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 14. NRS 689A.0435 is hereby amended to read as follows:

689A.0435 1. A health benefit plan must provide an option of coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders for persons covered by the policy under the age of 18 **years** or, if enrolled in high school, until the person reaches the age of 22 ~~½~~ **years**.

2. Optional coverage provided pursuant to this section must be subject to

1. (a) A maximum benefit of not less than \$36,000 per year for applied behavior analysis treatment; and

(b) Copayment, ~~copayment,~~ deductible and coinsurance provisions and any other general exclusions or limitations of a policy of health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A health benefit plan that offers or issues a policy of health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for optional coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as **otherwise** provided in subsections 1 and 2, an insurer who offers optional coverage pursuant to subsection 1 shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or

rehabilitative care, prescription care, psychiatric care, psychological care, ~~behavior~~ **behavioral** therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➔ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

7. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) ***“Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:***

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

~~[(e)]~~ **(d)** “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or ~~[certified]~~ autism behavior interventionist.

~~[(d)]~~ “Certified autism behavior interventionist” means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

~~— (1) A licensed psychologist;~~

~~— (2) A licensed behavior analyst; or~~

~~— (3) A licensed assistant behavior analyst.]~~

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) “Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 15. NRS 689A.0435 is hereby amended to read as follows:

689A.0435 1. A health benefit plan must provide an option of coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders for persons covered by the policy under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. Optional coverage provided pursuant to this section must be subject to:

(a) A maximum benefit of not less than ~~(\$26,000)~~ **the actuarial equivalent of \$72,000** per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusions or limitations of a policy of health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A health benefit plan that offers or issues a policy of health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for optional coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as otherwise provided in subsections 1 and 2, an insurer who offers optional coverage pursuant to subsection 1 shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➡ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

7. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) “Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(d) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or autism behavior interventionist.

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) “Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 16. NRS 689B.0335 is hereby amended to read as follows:

689B.0335 1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism

spectrum disorders to persons covered by the policy of group health insurance under the age of 18 ~~years~~ or, if enrolled in high school, until the person reaches the age of 22 ~~+~~ ~~years~~.

2. Coverage provided under this section is subject to :

(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and

(b) Copayment, ~~copayment,~~ deductible and coinsurance provisions and any other general exclusion or limitation of a policy of group health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as **otherwise** provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, ~~behavior~~ **behavioral** therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➡ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and

consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) **“Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:**

- (1) A licensed psychologist;**
- (2) A licensed behavior analyst; or**
- (3) A licensed assistant behavior analyst.**

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

~~[(c)]~~ (d) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or ~~[certified]~~ autism behavior interventionist.

~~[(d)]~~ “Certified autism behavior interventionist” means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

- ~~— (1) A licensed psychologist;~~
- ~~— (2) A licensed behavior analyst; or~~
- ~~— (3) A licensed assistant behavior analyst.]~~

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) “Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 17. NRS 689B.0335 is hereby amended to read as follows:

689B.0335 1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the policy of group health insurance under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of ~~(\$36,000)~~ **the actuarial equivalent of \$72,000** per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a policy of group health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as otherwise provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or

rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➡ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) “Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(d) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or autism behavior interventionist.

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation,

applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) “Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 18. NRS 689C.1655 is hereby amended to read as follows:

689C.1655 1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health benefit plan under the age of 18 **years** or, if enrolled in high school, until the person reaches the age of 22 ~~18~~ **years**.

2. Coverage provided under this section is subject to :

(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and

(b) Copayment, ~~copayment,~~ deductible and coinsurance provisions and any other general exclusion or limitation of a health benefit plan to the same extent as other medical services or prescription drugs covered by the plan.

3. A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health benefit plan or cancel a health benefit plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

4. Except as **otherwise** provided in subsections 1 and 2, a carrier shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, ~~behavior~~ **behavioral** therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➔ A carrier may request a copy of and review a treatment plan created pursuant to this subsection.

6. A health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the plan or the renewal which is in conflict with subsection 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a carrier to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) **“Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:**

- (1) A licensed psychologist;
- (2) A licensed behavior analyst; or
- (3) A licensed assistant behavior analyst.

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

~~[(e)]~~ (d) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or ~~[certified]~~ autism behavior interventionist.

~~[(d)]~~ “Certified autism behavior interventionist” means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

- ~~— (1) A licensed psychologist;~~
- ~~— (2) A licensed behavior analyst; or~~
- ~~— (3) A licensed assistant behavior analyst.]~~

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 19. NRS 689C.1655 is hereby amended to read as follows:

689C.1655 1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health benefit plan under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of ~~(\$36,000)~~ the actuarial equivalent of \$72,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health benefit plan to the same extent as other medical services or prescription drugs covered by the plan.

3. A health benefit plan that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health benefit plan or cancel a health benefit plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

4. Except as otherwise provided in subsections 1 and 2, a carrier shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➡ A carrier may request a copy of and review a treatment plan created pursuant to this subsection.

6. A health benefit plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any

provision of the plan or the renewal which is in conflict with subsection 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a carrier to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) “Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:

- (1) A licensed psychologist;
- (2) A licensed behavior analyst; or
- (3) A licensed assistant behavior analyst.

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(d) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or autism behavior interventionist.

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that

organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 20. NRS 695C.1717 is hereby amended to read as follows:

695C.1717 1. A health care plan issued by a health maintenance organization must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 **years** or, if enrolled in high school, until the person reaches the age of 22 ~~1-1~~ **years**.

2. Coverage provided under this section is subject to :

(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and

(b) Copayment, ~~copayment,~~ deductible and coinsurance provisions and any other general exclusion or limitation of a health care plan to the same extent as other medical services or prescription drugs covered by the plan.

3. A health care plan issued by a health maintenance organization that provides coverage for outpatient care shall not:

(a) Require an enrollee to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

4. Except as **otherwise** provided in subsections 1 and 2, a health maintenance organization shall not limit the number of visits an enrollee may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or

rehabilitative care, prescription care, psychiatric care, psychological care, ~~behavior~~ **behavioral** therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➔ A health maintenance organization may request a copy of and review a treatment plan created pursuant to this subsection.

6. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a health maintenance organization to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) ***“Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:***

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

~~[(c)]~~ (d) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or ~~certified~~ autism behavior interventionist.

~~[(d)]~~ “Certified autism behavior interventionist” means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

— (1) A licensed psychologist;

~~—(2) A licensed behavior analyst; or~~

~~—(3) A licensed assistant behavior analyst.]~~

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) “Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 21. NRS 695C.1717 is hereby amended to read as follows:

695C.1717 1. A health care plan issued by a health maintenance organization must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of ~~[\$26,000]~~ **the actuarial equivalent of \$72,000** per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health care plan to the same extent as other medical services or prescription drugs covered by the plan.

3. A health care plan issued by a health maintenance organization that provides coverage for outpatient care shall not:

(a) Require an enrollee to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

4. Except as otherwise provided in subsections 1 and 2, a health maintenance organization shall not limit the number of visits an enrollee may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

↪ A health maintenance organization may request a copy of and review a treatment plan created pursuant to this subsection.

6. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 or 2 is void.

7. Nothing in this section shall be construed as requiring a health maintenance organization to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) “Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:

- (1) A licensed psychologist;
- (2) A licensed behavior analyst; or
- (3) A licensed assistant behavior analyst.

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(d) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or autism behavior interventionist.

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) “Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 22. NRS 695G.1645 is hereby amended to read as follows:

695G.1645 1. A health care plan issued by a managed care organization for group coverage must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 **years** or, if enrolled in high school, until the person reaches the age of 22 ~~18~~ **years**.

2. A health care plan issued by a managed care organization for individual coverage must provide an option for coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 **years** or, if enrolled in high school, until the person reaches the age of 22 ~~18~~ **years**.

3. Coverage provided under this section is subject to :

(a) A maximum benefit of \$36,000 per year for applied behavior analysis treatment; and

(b) Copayment, ~~copayment,~~ deductible and coinsurance provisions and any other general exclusion or limitation of a health care plan to the same extent as other medical services or prescription drugs covered by the plan.

4. A managed care organization that offers or issues a health care plan which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

5. Except as **otherwise** provided in subsections 1, 2 and 3, a managed care organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

6. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, ~~behavior~~ **behavioral** therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➡ A managed care organization may request a copy of and review a treatment plan created pursuant to this subsection.

7. An evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 or 3 is void.

8. Nothing in this section shall be construed as requiring a managed care organization to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

9. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) ***“Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:***

(1) A licensed psychologist;

(2) A licensed behavior analyst; or

(3) A licensed assistant behavior analyst.

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

~~[(e)]~~ (d) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or ~~[certified]~~ autism behavior interventionist.

~~[(d)]~~ “Certified autism behavior interventionist” means a person who is certified as an autism behavior interventionist by the Board of Psychological Examiners and who provides behavior therapy under the supervision of:

~~— (1) A licensed psychologist;~~

~~— (2) A licensed behavior analyst; or~~

~~— (3) A licensed assistant behavior analyst.]~~

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) “Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 23. NRS 695G.1645 is hereby amended to read as follows:

695G.1645 1. A health care plan issued by a managed care organization for group coverage must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

2. A health care plan issued by a managed care organization for individual coverage must provide an option for coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the health care plan under the age of 18 years or, if enrolled in high school, until the person reaches the age of 22 years.

3. Coverage provided under this section is subject to:

(a) A maximum benefit of ~~[\$26,000]~~ **the actuarial equivalent of \$72,000** per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health care plan to the same extent as other medical services or prescription drugs covered by the plan.

4. A managed care organization that offers or issues a health care plan which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

5. Except as otherwise provided in subsections 1, 2 and 3, a managed care organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

6. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavioral therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

↪ A managed care organization may request a copy of and review a treatment plan created pursuant to this subsection.

7. An evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 or 3 is void.

8. Nothing in this section shall be construed as requiring a managed care organization to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

9. As used in this section:

(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) “Autism behavior interventionist” means a person who is registered as a Registered Behavior Technician or an equivalent credential by the Behavior

Analyst Certification Board, Inc., or its successor organization, and provides behavioral therapy under the supervision of:

- (1) A licensed psychologist;
- (2) A licensed behavior analyst; or
- (3) A licensed assistant behavior analyst.

(c) “Autism spectrum disorders” means a neurobiological medical condition including, without limitation, autistic disorder, Asperger’s Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(d) “Behavioral therapy” means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed psychologist, licensed behavior analyst, licensed assistant behavior analyst or autism behavior interventionist.

(e) “Evidence-based research” means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(f) “Habilitative or rehabilitative care” means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(g) “Licensed assistant behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization, who is licensed as an assistant behavior analyst by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst or psychologist.

(h) “Licensed behavior analyst” means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst or a board certified assistant behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(i) “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(j) “Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(k) “Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(l) “Screening for autism spectrum disorders” means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(m) “Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(n) “Treatment plan” means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and may be developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 24. 1. Any regulations adopted by the Board of Psychological Examiners before ~~{October 1, 2015,}~~ the effective date of this section pursuant to NRS 641.100 or 641.232 are unenforceable with respect to an autism behavior interventionist as of that date. ~~{, until July 1, 2017, except that if, on or before that date, legislation is enacted to provide for certification of an autism behavior interventionist as a Registered Behavior Technician or an equivalent certification by the Behavior Analyst Certification Board, Inc., or its successor organization, the regulations will be void with respect to an autism behavior interventionist.}~~

2. ~~{If, on or before July 1, 2017, the legislation described in subsection 2 is enacted, the}~~ The Legislative Counsel shall, as soon as practicable after ~~{that date,}~~ January 1, 2016:

(a) Remove all of the regulations described in subsection 1 that solely apply to autism behavior interventionists; and

(b) Remove references to an autism behavior interventionist from all other regulations described in subsection 1.

3. An autism behavior interventionist who is certified by the Board of Psychological Examiners before the effective date of this section shall be deemed to be registered as a Registered Behavior Technician or an equivalent credential by the Behavior Analyst Certification Board, Inc., until January 1, 2016.

Sec. 25. NRS 641.172 is hereby repealed.

Sec. 26. 1. This section and sections 1 to 12, inclusive, 14, 16, 18, 20, 22, 24 and 25 of this act become effective ~~{on October 1, 2015,}~~ upon passage and approval.

2. ~~{Sections 1 to 11, inclusive, 24 and 25 of this act expire by limitation on June 30, 2017, unless, on or before that date, legislation is enacted and approved to provide for certification of an autism behavior interventionist as a Registered Behavior Technician or an equivalent certification by the Behavior Analyst Certification Board, Inc., or its successor organization.}~~

~~—3.}~~ Sections 13, 15, 17, 19, 21 and 23 of this act become effective on January 1, ~~{2018, unless, on or before June 30, 2017, legislation is enacted and approved to provide for certification of an autism behavior interventionist as a Registered Behavior Technician or an equivalent certification by the Behavior Analyst Certification Board, Inc., or its successor organization.}~~ 2017.

TEXT OF REPEALED SECTION**641.172 Qualifications of applicant for certification as autism behavior interventionist; Board to evaluate application and issue statement of determination; contents of statement.**

1. Each application for certification as an autism behavior interventionist must be accompanied by evidence satisfactory to the Board that the applicant:

- (a) Is at least 18 years of age.
- (b) Is of good moral character as determined by the Board.
- (c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

(e) Has completed satisfactorily a standardized practical examination developed and approved by the Board. The examination must be conducted by the applicant's supervisor, who shall make a videotape or other audio and visual recording of the applicant's performance of the examination for submission to the Board. The Board may review the recording as part of its evaluation of the applicant's qualifications.

2. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for certification as an autism behavior interventionist; and

(b) Issue a written statement to the applicant of its determination.

3. If the Board determines that the qualifications of the applicant are insufficient for certification, the written statement issued to the applicant pursuant to subsection 2 must include a detailed explanation of the reasons for that determination.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 17.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 428.

SUMMARY—~~Provides for the establishment of a nonprofit entity for certain~~ Revises provisions relating to economic development purposes.
(BDR 18-292)

AN ACT relating to economic development; providing for the establishment by the Executive Director of the Office of Economic Development of a nonprofit entity for certain economic development purposes; revising provisions governing the confidentiality of certain records and documents; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~{This} Section 3.5 of this bill {provides for the establishment by}~~ **authorizes** the Executive Director of the Office of Economic Development **to cause the formation** of a nonprofit entity for certain economic development purposes. ~~Section 2 of this bill authorizes the Executive Director to propose the formation of a nonprofit entity that is exempt from federal income taxation, the purpose of which is to promote, aid and encourage economic development in this State or a locality or region of this State. Under section 1 of this bill,~~ **upon approval by** the Board of Economic Development, ~~{is required to review the Executive Director's proposal and approve, disapprove or modify the proposal. Section 2 authorizes the Executive Director to form the nonprofit corporation with the approval of the Board.}~~ **Section 3.5 specifies the manner in which the board of directors of the nonprofit entity must be appointed, and requires the board to submit an annual report to the Legislative Counsel Bureau.** **Section 3.5** further provides that certain records and documents in the possession of the nonprofit corporation must be kept confidential to the same extent that records and documents in the possession of the Office must be kept confidential. Finally, ~~section {3 of this bill}~~ **3.5** requires the Office to adopt regulations prescribing: (1) the means by which the Office will verify and ensure that the nonprofit corporation will further the public interest in economic development; and (2) the procedures by which the Office will ensure that records and documents used by the nonprofit corporation will be kept confidential when those records and documents are required to be kept confidential under existing law.

Existing law requires the Office to keep confidential certain records and documents. (NRS 231.069) **Section 4** of this bill establishes a procedure by which a client of the Office may request that the Office keep confidential certain records and documents of the client and requires the Office to keep confidential those records and documents if the Office finds that the records and documents contain proprietary or confidential information.

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

Section 1. ~~{NRS 231.037 is hereby amended to read as follows:~~

~~231.037 The Board shall:~~

~~1. Review and evaluate all programs of economic development in this State and make recommendations to the Legislature for legislation to improve the effectiveness of those programs in implementing the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053.~~

~~2. Recommend to the Executive Director a State Plan for Economic Development and make recommendations to the Executive Director for carrying out the State Plan for Economic Development, including, without limitation, recommendations regarding the development and implementation~~

~~of a recruiting and marketing effort to attract professionals and businesses to this State.~~

~~3. Recommend to the Executive Director the criteria for the designation of regional development authorities.~~

~~4. Make recommendations to the Executive Director for the designation for the southern region of this State, the northern region of this State and the rural region of this State, one or more regional development authorities for each region.~~

~~5. Provide advice and recommendations to the Executive Director concerning:~~

~~(a) The procedures to be followed by any entity seeking to obtain any development resource, allocation, grant or loan from the Office;~~

~~(b) The criteria to be used by the Office in providing development resources and making allocations, grants and loans;~~

~~(c) The requirements for reports from the recipients of development resources, allocations, grants and loans from the Office concerning the use thereof; and~~

~~(d) Any other activities of the Office.~~

~~6. Review each proposal by the Executive Director to enter into a contract pursuant to NRS 231.057 for more than \$100,000 or allocate, grant or loan more than \$100,000 to any entity and, as the Board determines to be in the best interests of the State, approve or disapprove the proposed allocation, grant or loan. Notwithstanding any other statutory provision to the contrary, the Executive Director shall not enter into any contract pursuant to NRS 231.057 for more than \$100,000 or make any allocation, grant or loan of more than \$100,000 to any entity unless the allocation, grant or loan is approved by the Board.~~

~~7. Review each proposal by the Executive Director pursuant to subsection 7 of NRS 231.053 to form a nonprofit corporation that is exempt from federal income taxation, the purpose of which is to promote, aid and encourage economic development in this State or a locality or region of this State and, as the Board determines to be in the best interests of this State, approve, disapprove or modify the proposal made by the Executive Director.]~~
(Deleted by amendment.)

Sec. 2. ~~[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 and declare void any contract between the Office and that regional development authority.~~

~~—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 231.1573 to 231.1597, inclusive.~~

~~—7. **May propose to the Board the formation of a nonprofit corporation that is exempt from federal income taxation, the purpose of which is to promote, aid and encourage economic development in this State or a locality or region of this State and, with the approval of the Board, form such a nonprofit corporation. The nonprofit corporation shall keep confidential any record or other document of a client which is in its possession to the same extent that the record or other document would be required to kept confidential pursuant to NRS 231.069.**~~

~~—8. May adopt such regulations as may be necessary to carry out the provisions of NRS 231.020 to 231.139, inclusive, and 231.1573 to 231.1597, inclusive.~~

~~—[9.] 9. 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. **(Deleted by amendment.)**~~

Sec. 3. ~~[NRS 231.055 is hereby amended to read as follows:~~

~~—231.055 Under the direction of the Executive Director, the Office:~~

- ~~1. Shall provide administrative and technical support to the Board.~~
- ~~2. Shall support the efforts of the Board, the regional development authorities designated by the Executive Director pursuant to subsection 4 of NRS 231.053 and the private sector to encourage the creation and expansion of businesses in Nevada and the relocation of businesses to Nevada.~~
- ~~3. Shall coordinate and oversee all economic development programs in this State to ensure that such programs are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053, including, without limitation:~~
 - ~~(a) Coordinating the economic development activities of agencies of this State, local governments in this State and local and regional organizations for economic development to avoid duplication of effort or conflicting efforts;~~
 - ~~(b) Working with local, state and federal authorities to streamline the process for obtaining abatements, financial incentives, grants, loans and all necessary permits and licenses for the creation or expansion of businesses in Nevada or the relocation of businesses to Nevada; and~~
 - ~~(c) Reviewing, analyzing and making recommendations for the approval or disapproval of applications for abatements, financial incentives, development resources, and grants and loans of money provided by the Office.~~
- ~~4. Shall adopt regulations prescribing:~~
 - ~~(a) The means by which the Office will verify that a nonprofit corporation formed by the Executive Director pursuant to subsection 7 of NRS 231.053 furthers the public interest in economic development and ensure that the nonprofit corporation carries out such a purpose; and~~
 - ~~(b) The procedures the Office will follow to ensure that the records and documents that are confidential pursuant to NRS 231.069 will be kept confidential when the records or other documents are used by a nonprofit corporation formed by the Executive Director pursuant to subsection 7 of NRS 231.053.~~
- ~~5. May:~~
 - ~~(a) Participate in any federal programs for economic development that are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053; and~~
 - ~~(b) When practicable and authorized by federal law, act as the agency of this State to administer such federal programs.} (Deleted by amendment.)~~

Sec. 3.5. Chapter 231 of NRS is hereby amended by adding thereto a new section to read as follows:

1. After considering any pertinent advice and recommendations of the Board, the Executive Director may:

(a) Propose to the Board the formation of a nonprofit corporation that is exempt from federal income taxation, the purpose of which is to promote, aid and encourage economic development in this State or a locality or region of this State; and

(b) Upon approval of a proposal by the Board, cause such a corporation to be formed.

2. The Board shall:

(a) Review each proposal by the Executive Director pursuant to subsection 1; and

(b) As the Board determines to be in the best interests of this State, approve, disapprove or modify the proposal made by the Executive Director.

3. A nonprofit corporation formed pursuant to this section must have a board of directors consisting of:

(a) The Executive Director.

(b) Four members from the private sector who have at least 10 years of experience in the field of investment, finance, accounting, technology, commercialization or banking, appointed by the Executive Director, with the approval of the Board.

(c) One member appointed by the Speaker of the Assembly.

(d) One member appointed by the Senate Majority Leader.

4. The Executive Director shall serve as chair of the board of directors of the nonprofit corporation formed pursuant to this section.

5. Except as otherwise provided in this subsection, each member appointed to the board of directors of the nonprofit corporation formed pursuant to this section serves a term of 4 years. Two of the initial members of the board of directors who are appointed pursuant to paragraph (b) of subsection 3 must be appointed to an initial term of 2 years.

6. Each member of the board of directors of the nonprofit corporation formed pursuant to this section continues in office until a successor is appointed. Members of the board of directors may be reappointed for additional terms of 4 years in the same manner as the original appointments.

7. Vacancies in the appointed positions on the board of directors of the nonprofit corporation formed pursuant to this section must be filled by the appointing authority for the unexpired term.

8. The members of the board of directors of the corporation formed pursuant to this section must serve without compensation but are entitled to be reimbursed for actual and necessary expenses incurred in the performance of their duties, including, without limitation, travel expenses.

9. A member of the board of directors of the corporation formed pursuant to this section must not have an equity interest in any:

(a) External asset manager or venture capital or private equity investment firm contracting with the nonprofit corporation; or

(b) Business which receives private equity funding from the nonprofit corporation.

10. The nonprofit corporation shall keep confidential any record or other document of a client which is in its possession to the same extent that the record or other document would be required to be kept confidential pursuant to NRS 231.069.

11. The board of directors of the nonprofit corporation formed pursuant to this section shall, on or before December 1 of each year, provide an annual report to the Governor and the Director of the Legislative Counsel

Bureau for transmission to the next session of the Legislature, if the report is submitted in an even-numbered year or to the Legislative Commission, if the report is submitted in an odd-numbered year. The report must include, without limitation:

(a) An accounting of all money received and expended by the nonprofit corporation, including, without limitation, any matching grant funds, gifts or donations; and

(b) The name and a brief description of all businesses receiving an investment of money from the nonprofit corporation formed pursuant to this section.

12. Under the direction of the Executive Director, the Office shall adopt regulations prescribing:

(a) The means by which the Office will verify that a nonprofit corporation formed pursuant to this section furthers the public interest in economic development and ensure that the nonprofit corporation carries out such a purpose; and

(b) The procedures the Office will follow to ensure that the records and documents that are confidential pursuant to NRS 231.069 will be kept confidential when the records or other documents are used by a nonprofit corporation created pursuant to this section.

Sec. 4. NRS 231.069 is hereby amended to read as follows:

231.069 1. Except as otherwise provided in **subsection 3 and** NRS 239.0115 ~~[-, if so requested by a client,]~~ **and 360.950**, the Office shall keep confidential any record or other document **of a client which is** in its possession ~~[-concerning the initial contact with and research and planning for that client. If such a request is made,]~~ **if the client:**

(a) Submits a request in writing that the record or other document be kept confidential by the Office; and

(b) Demonstrates to the satisfaction of the Office that the record or other document contains proprietary or confidential information.

2. If the Office determines that a record or other document of a client contains proprietary or confidential information, the Executive Director shall attach to the file containing the record or document ~~[-a]~~ :

(a) A certificate signed by him or her stating that a request for confidentiality was made by the client and the date of the request ~~[-~~

~~-2-]~~;

(b) A copy of the written request submitted by the client;

(c) The documentation to support the request which was submitted by the client; and

(d) A copy of the decision of the Office determining that the record or other document contains proprietary or confidential information.

3. The Office may share the records and other documents that are confidential pursuant to this section with the nonprofit corporation formed by the Executive Director pursuant to ~~[-subsection 7 of NRS 231.053,]~~ **section**

3.5 of this act, as deemed necessary by the Office to accomplish the purposes for which the nonprofit corporation was formed.

4. Records and documents that are confidential pursuant to ~~{subsection 4}~~ **this section :** ~~{remain confidential until the client~~

~~— (a) Initiates any process regarding the location of his or her business in Nevada which is within the jurisdiction of a state agency other than the Office; or~~

~~— (b) Decides to locate his or her business in Nevada.]~~

(a) Are proprietary or confidential information of the business;

(b) Are not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Office unless the business consents to the disclosure.

5. As used in this section, “proprietary or confidential information” has the meaning ascribed to it in NRS 360.247.

Sec. 5. NRS 231.069 is hereby amended to read as follows:

231.069 1. Except as otherwise provided in subsection 3 and NRS 239.0115 , ~~{and NRS 360.950,}~~ the Office shall keep confidential any record or other document of a client which is in its possession if the client:

(a) Submits a request in writing that the record or other document be kept confidential by the Office; and

(b) Demonstrates to the satisfaction of the Office that the record or other document contains proprietary or confidential information.

2. If the Office determines that a record or other document of a client contains proprietary or confidential information, the Executive Director shall attach to the file containing the record or document:

(a) A certificate signed by him or her stating that a request for confidentiality was made by the client and the date of the request;

(b) A copy of the written request submitted by the client;

(c) The documentation to support the request which was submitted by the client; and

(d) A copy of the decision of the Office determining that the record or other document contains proprietary or confidential information.

3. The Office may share the records and other documents that are confidential pursuant to this section with the nonprofit corporation formed by the Executive Director pursuant to section 3.5 of this act, as deemed necessary by the Office to accomplish the purposes for which the nonprofit corporation was formed.

4. Records and documents that are confidential pursuant to this section:

(a) Are proprietary or confidential information of the business;

(b) Are not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Office unless the business consents to the disclosure.

5. As used in this section, “proprietary or confidential information” has the meaning ascribed to it in NRS 360.247.

Sec. 5.5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 6. 1. This section and sections 1 to 4, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2015, for all other purposes.

2. Section 5 of this act becomes effective on July 1, 2036.

Assemblyman Armstrong moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 20.

Bill read second time.

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

Amendment No. 42.

AN ACT relating to state financial administration; revising provisions governing the procedure for the revision of the budget of the Executive Department of the State Government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under the State Budget Act, a department, institution or other agency of the Executive Department of the State Government, with certain exceptions, is authorized, as a result of changed conditions, to request a revision to a work program within its budget. Such a revision is required to be approved or disapproved by the Governor or the Chief of the Budget Division of the Department of Administration. In addition, if the amount of the requested revision exceeds a specified monetary threshold and increases or decreases the expenditure level approved by the Legislature for any of the allotments within the work program by a specified percentage or amount, the revision also requires the additional approval ~~by~~ of the Interim Finance Committee, unless the Governor approves the revision as necessary because of a qualifying emergency situation or for the protection of life or property. (NRS 353.220) ~~[Further, under existing law, the acceptance of a gift or grant of property or services by a state agency, with certain exceptions, from any source requires approval by the Interim Finance Committee unless: (1) the gift or grant is included in an act of the Legislature authorizing expenditures of nonappropriated money; (2) the gift or grant is below a specified monetary threshold depending on the source, does not involve the hiring of new employees and has been approved by the Governor or the Chief of the Budget Division; or (3) the gift or grant is approved by the Governor as necessary~~

~~because of a qualifying emergency situation or for the protection of life or property. (NRS 353.225)~~

This bill removes the requirement for **additional** approval by the Governor, **in certain emergency circumstances,** or **the** Interim Finance Committee ~~for~~ of work program changes which result from: (1) acceptance **by a state agency** of a gift **or nongovernmental grant which does not exceed \$20,000** or **a governmental** grant ~~approved by the Governor or Interim Finance Committee in the manner required by statute;~~ **which does not exceed \$150,000;** or (2) carrying forward money from one fiscal year to the next without a change in purpose.

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

Section 1. NRS 353.220 is hereby amended to read as follows:

353.220 1. The head of any department, institution or agency of the Executive Department of the State Government, whenever he or she deems it necessary because of changed conditions, may request the revision of the work program of his or her department, institution or agency at any time during the fiscal year, and submit the revised program to the Governor through the Chief with a request for revision of the allotments for the remainder of that fiscal year.

2. Every request for revision must be submitted to the Chief on the form and with supporting information as the Chief prescribes.

3. Before encumbering any appropriated or authorized money, every request for revision must be approved or disapproved in writing by the Governor or the Chief, if the Governor has by written instrument delegated this authority to the Chief.

4. ~~Whenever~~ **Except as otherwise provided in subsection 8, whenever** a request for the revision of a work program of a department, institution or agency in an amount more than \$30,000 would, when considered with all other changes in allotments for that work program made pursuant to **subsections 1, 2 and 3 and** NRS 353.215, ~~and subsections 1, 2 and 3 of this section,~~ increase or decrease by 10 percent or \$75,000, whichever is less, the expenditure level approved by the Legislature for any of the allotments within the work program, the request must be approved as provided in subsection 5 before any appropriated or authorized money may be encumbered for the revision.

5. If a request for the revision of a work program requires additional approval as provided in subsection 4 and:

(a) Is necessary because of an emergency as defined in NRS 353.263 or for the protection of life or property, the Governor shall take reasonable and proper action to approve it and shall report the action, and his or her reasons for determining that immediate action was necessary, to the Interim Finance Committee at its first meeting after the action is taken. Action by the Governor pursuant to this paragraph constitutes approval of the revision, and other

provisions of this chapter requiring approval before encumbering money for the revision do not apply.

(b) The Governor determines that the revision is necessary and requires expeditious action, he or she may certify that the request requires expeditious action by the Interim Finance Committee. Whenever the Governor so certifies, the Interim Finance Committee has 15 days after the request is submitted to its Secretary within which to consider the revision. Any request for revision which is not considered within the 15-day period shall be deemed approved.

(c) Does not qualify pursuant to paragraph (a) or (b), it must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after the request is submitted to its Secretary within which to consider the revision. Any request which is not considered within the 45-day period shall be deemed approved.

6. The Secretary shall place each request submitted pursuant to paragraph (b) or (c) of subsection 5 on the agenda of the next meeting of the Interim Finance Committee.

7. In acting upon a proposed revision of a work program, the Interim Finance Committee shall consider, among other things:

(a) The need for the proposed revision; and

(b) The intent of the Legislature in approving the budget for the present biennium and originally enacting the statutes which the work program is designed to effectuate.

8. The provisions of subsection 4 do not apply to any request for the revision of a work program which is required:

(a) As a result of the acceptance of a gift or grant of property or services ~~for which acceptance is authorized or approved~~ pursuant to subsection 5 of NRS 353.335; or

(b) To carry forward to a fiscal year, without a change in purpose, the unexpended balance of any money authorized for expenditure in the immediately preceding fiscal year.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Ellison moved the adoption of the amendment.

Remarks by Assemblymen Carlton and Ellison.

ASSEMBLYWOMAN CARLTON:

To the chair of Government Affairs, I just want to make sure that the Interim Finance Committee will be getting information in the future on these gifts and grants so there still will be some way for us to have some accountability and to track these dollars. There are times when accepting the grant actually costs us more in the long run, and with a lot of the discussions about the lack of transparency, I just want to make sure that IFC and Ways and Means both still will be able to get this information in the future.

ASSEMBLYMAN ELLISON:

To my colleague, yes, the committee made sure that would happen—that they do have a voice.

ASSEMBLYWOMAN CARLTON:

I am concerned that I do not actually see the language within the amendment, so I will investigate it more. I just want to make sure that we put this on the record. We could end up taking money we really do not want.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 34.

Bill read second time.

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

Amendment No. 43.

SUMMARY—~~Repeals~~ **Makes various changes to** provisions governing certain fire protection districts and fire safety. (BDR 42-369)

AN ACT relating to fire safety; repealing provisions governing certain fire protection districts; reenacting certain of those provisions relating to fire safety; **revising the circumstances under which a person, firm, association or agency that caused a fire or other emergency that threatens human life would be charged for the expenses incurred to extinguish the fire or meet the emergency;** authorizing the State Land Registrar to transfer title to certain real property owned by the State of Nevada to certain local fire protection districts and counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the creation of certain fire protection districts by petition to the State Forester Firewarden. (Chapter 473 of NRS) The functions of those districts are currently being transferred to other local government entities. Accordingly, **section 15** of this bill repeals the provisions of chapter 473 of NRS. Certain provisions of that chapter relating to fire safety are reenacted in chapter 472 of NRS by **sections ~~12-51~~ 2, 3 and 5** of this bill. **Sections 6-10** of this bill make conforming changes.

Existing law provides that within the boundaries of certain fire protection districts, any person, firm, association or agency responsible for causing any fire or other emergency which threatens human life may, in certain circumstances, be charged with the expenses incurred in extinguishing the fire or meeting the emergency, together with the cost of necessary patrol. (NRS 473.080, 474.550) Section 4 of this bill reenacts NRS 473.080 but removes the boundary limitation and revises the circumstances under which a person, firm, association or agency would be required to pay those expenses. Section 8.5 of this bill makes a similar change concerning those expenses with respect to county fire protection districts.

Existing law authorizes the State Land Registrar to transfer any interest in land owned by the State of Nevada. (NRS 321.003) **Sections 11-13** of this bill authorize the State Land Registrar to transfer title to certain real property owned by the State, with certain restrictions, to certain local fire protection

districts and counties as the result of the dissolution of the fire protection districts created pursuant to chapter 473 of NRS.

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

Section 1. Chapter 472 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. *The State Forester Firewarden may prohibit or restrict the following activities on any lands within the jurisdiction of the State Forester Firewarden when a danger to public safety or natural resources exists because of conditions which create a high risk of fire:*

(a) The operation in an area of timber, brush or grass of a motor vehicle or other item of equipment powered by a motor:

(1) If the motor does not have a spark arrestor as required by law; or

(2) If the operator does not have in his or her possession an ax, shovel and at least 1 gallon of water;

(b) The operation in an area of timber, brush or grass of a motor vehicle off an existing paved, gravel or dirt road;

(c) The smoking of tobacco or other substances in any place other than a motor vehicle or an area cleared of flammable vegetation;

(d) Setting an open fire in any place other than in a fireplace located in an established picnic area or campground; or

(e) Other activities, if specified in regulations adopted by the State Forester Firewarden and the prohibition or restriction is related to reducing a high risk of fire,

↪ but these prohibitions and restrictions do not apply in established campgrounds or picnic areas, beaches or places of habitation or to travel on state or federal highways.

2. *The State Forester Firewarden shall make a public announcement and post signs in any area where the State Forester Firewarden has prohibited or restricted any activities.*

3. *The State Forester Firewarden shall, upon finding that a danger to public safety or to natural resources no longer exists, make known to the public the end of any prohibition or restriction in that area.*

4. *The provisions of this section apply only to specified prohibitions or restrictions and do not confer upon the State Forester Firewarden the power to prohibit access to land.*

5. *Any person violating any of the provisions of this section is guilty of a misdemeanor.*

Sec. 3. *Except as otherwise provided in NRS 527.126, any person, firm, association or agency which, personally or through another, willfully, negligently or in violation of the law:*

1. *Sets fire to the property, whether privately or publicly owned, of another;*

2. Allows fire to be set to the property, whether privately or publicly owned, of another; or

3. Allows a fire kindled or attended by the person, firm, association or agency to escape to the property, whether privately or publicly owned, of another,

↪ is liable to the owner of the property for the damages caused by the fire.

Sec. 4. ~~Any~~ 1. Except as otherwise provided in this section or by specific statute, if the State Forester Firewarden determines that a person, firm, association or agency is responsible for willfully or negligently causing any fire or other emergency which threatens human life, the person, firm, association or agency may be charged with the expenses incurred in extinguishing the fire or meeting the emergency, together with the cost of necessary patrol. This charge constitutes a debt of the person, firm, association or agency charged and is collectible by the federal, state or county agency incurring such expenses in the same manner as in the case of an obligation under a contract, express or implied.

2. If the State Forester Firewarden determines that the fire or other emergency which threatens human life was the result of an unavoidable accident, the State Forester Firewarden shall not charge the person, firm, association or agency that caused the fire or emergency the expenses incurred in extinguishing the fire or meeting the emergency.

Sec. 5. 1. Except as otherwise provided in this section and NRS 527.126, it is unlawful for any person, firm, association, corporation or agency to burn, or cause to be burned, any brush, grass, logs or any other inflammable material, or blast with dynamite, powder or other explosive, or set off fireworks, or operate a welding torch, tarpot or any other device that may cause a fire in forest, grass or brush, either on the land of the person, firm, association, corporation or agency or on the land of another, or on public land, unless the burning or act is done under a written permit from the State Forester Firewarden or the State Forester Firewarden's duly authorized agent and in strict accordance with the terms of the permit.

2. Written permission is not necessary:

(a) At any time during the year when the State Forester Firewarden determines that no fire hazard exists.

(b) To burn materials in screened, safe incinerators, or in incinerators approved by the local governmental jurisdiction, the State Forester Firewarden or the State Forester Firewarden's duly authorized agent, or in small heaps or piles, where the fire is set on a public road, corrals, gardens or ploughed fields, and at a distance not less than 100 feet from any woodland, timber or brush-covered land or field containing dry grass or other inflammable material with at least one adult person in actual attendance at the fire at all times during its burning.

3. This section does not prevent the issuance of an annual permit to any public utility covering its usual and emergency operation and maintenance work.

4. This section does not prevent the building of necessary controlled small camp and branding fires if caution is taken to make certain that the fire is extinguished before leaving. In any case where the fire escapes and does injury to the property of another, the escape and injury are prima facie evidence of a violation of this section.

5. The provisions of this section apply only to areas of land that are outside of incorporated cities and towns.

6. Any person, firm, association, corporation or agency violating any of the provisions of this section is guilty of a misdemeanor.

Sec. 6. NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

(a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.

(b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318 ~~473~~ or 474 of NRS.

(l) Upon the request of the State Engineer, review a plan submitted with an application for the issuance of a temporary permit pursuant to NRS 533.436.

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrol officers, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary to fire protection and forest and watershed management.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Sec. 7. NRS 472.041 is hereby amended to read as follows:

472.041 1. The State Forester Firewarden may:

~~(a) In a district formed pursuant to NRS 473.034; and~~

~~—(b) In~~, in an area designated pursuant to paragraph (d) of subsection 1 of NRS 472.040, including, without limitation, any land within the 1/2-mile radius surrounding such an area,

~~{→}~~ enforce all regulations relating to the reduction of brush, dense undergrowth and other vegetation around and adjacent to a structure to reduce the exposure of the structure to fire and radiant heat and increase the ability of firefighters to protect the structure.

2. The enforcement of these provisions must permit the planting of grass, trees, ornamental shrubbery or other plants used to stabilize the soil and prevent erosion so long as the plants do not form a means of rapidly transmitting fire from native growth to any structure.

Sec. 8. NRS 474.460 is hereby amended to read as follows:

474.460 1. All territory in each county or consolidated municipality not included in any other fire protection district, except incorporated areas other than consolidated municipalities, may be organized by ordinance by the board of county commissioners of the county in which that territory lies into as many fire protection districts as necessary to provide for the prevention and extinguishment of fires in the county, until such time as that territory may be included in another fire protection district formed in accordance with the provisions of ~~{chapter 473 of NRS or}~~ NRS 474.010 to 474.450, inclusive.

2. Each such district:

- (a) Is a political subdivision of the State; and
- (b) Has perpetual existence unless dissolved as provided in this chapter.

3. Each such district may:

- (a) Sue and be sued, and be a party to suits, actions and proceedings;
- (b) Arbitrate claims; and
- (c) Contract and be contracted with.

4. The board of county commissioners organizing each such district is ex officio the governing body of each such district. The governing body must be known as the board of fire commissioners.

5. The chair of the board of county commissioners is ex officio the chair of each such district.

6. The county clerk is ex officio the clerk of each such district.

7. Unless the board of fire commissioners employs a treasurer, the county treasurer is ex officio the treasurer of each such district.

Sec. 8.5. NRS 474.550 is hereby amended to read as follows:

474.550 1. Except as otherwise provided in this section and NRS 527.126, within the boundaries of any fire protection district created pursuant to this chapter, any person, firm, association or agency which willfully or negligently causes a fire or other emergency which threatens human life may be charged with the expenses incurred in extinguishing the fire or meeting the emergency and the cost of necessary patrol. Such a charge constitutes a debt which is collectible by the federal, state, county or district agency incurring the expenses in the same manner as an obligation under a contract, express or implied.

2. If it is determined that the fire or other emergency which threatens human life was the result of an unavoidable accident, the person, firm, association or agency that caused the fire or emergency may not be charged the expenses incurred in extinguishing the fire or meeting the emergency.

Sec. 9. NRS 332.015 is hereby amended to read as follows:

332.015 For the purpose of this chapter, unless the context otherwise requires, "local government" means:

1. Every political subdivision or other entity which has the right to levy or receive money from ad valorem taxes or other taxes or from any mandatory assessments, including counties, cities, towns, school districts and other districts organized pursuant to chapters 244, 309, 318, 379, 450, ~~473,~~ 474, 539, 541, 543 and 555 of NRS.

2. The Las Vegas Valley Water District created pursuant to the provisions of chapter 167, Statutes of Nevada 1947, as amended.

3. County fair and recreation boards and convention authorities created pursuant to the provisions of NRS 244A.597 to 244A.655, inclusive.

4. District boards of health created pursuant to the provisions of NRS 439.362 or 439.370.

5. The Nevada Rural Housing Authority.

Sec. 10. NRS 354.760 is hereby amended to read as follows:

354.760 1. All invoices or other notices issued by a local government to collect an account receivable must state that if the debtor wishes to pay by check or other negotiable instrument, such negotiable instrument must name as payee:

(a) The local government; or

(b) The title of the governmental official charged by law with the collection of such accounts.

↪ In no event may the invoice or other notice state that a check or other negotiable instrument may name a natural person as payee.

2. Notwithstanding the provisions of subsection 1, a local government may deposit into the appropriate account a check or other negotiable instrument which it determines is intended as payment for an account receivable.

3. As used in this section, "local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem taxes or other taxes or from any mandatory assessments, including, without limitation, counties, cities, towns, boards, authorities, school districts and other districts organized pursuant to chapters 244, 244A, 309, 318, 379, 439, 450, ~~473,~~ 474, 539, 541, 543 and 555 of NRS.

Sec. 11. The State Land Registrar may transfer to:

1. The Elko County Fire Protection District, without consideration, all the interest of the State of Nevada in the real property described in subsection 1 of section 13 of this act. If the real property is transferred pursuant to this subsection, the Elko County Fire Protection District shall pay the costs relating to the transfer of the real property.

2. The Truckee Meadows Fire Protection District, without consideration, all the interest of the State of Nevada in the real property described in subsection 2 of section 13 of this act. If the real property is transferred pursuant to this subsection, the Truckee Meadows Fire Protection District shall pay the costs relating to the transfer of the real property.

3. Clark County, without consideration, all the interest of the State of Nevada in the real property described in subsection 3 of section 13 of this act. If the real property is transferred pursuant to this subsection, Clark County shall pay the costs relating to the transfer of the real property.

4. The Storey County Fire Protection District, without consideration, all the interest of the State of Nevada in the real property described in subsection 4 of section 13 of this act. If the real property is transferred pursuant to this subsection, the Storey County Fire Protection District shall pay the costs relating to the transfer of the real property.

Sec. 12. If real property is transferred pursuant to section 11 of this act, the deed from the State of Nevada to the fire protection district or county, as applicable, must, subject to any easement, condition or other encumbrance of record:

1. Include restrictions:

(a) Requiring that the use of the property be for the provision of services for fire protection and related public safety services; and

(b) Prohibiting the fire protection district or county receiving the real property or any successor in title from transferring the property without the consent of the State of Nevada.

2. Provide for the reversion of title to the property to the State of Nevada upon the breach of any restriction specified in subsection 1.

Sec. 13. 1. The real property that may be transferred to the Elko County Fire Protection District pursuant to subsection 1 of section 11 of this act contains approximately 1.25 acres and is commonly known as the Independence Valley Volunteer Fire Station. Such real property may be described as follows:

The north half (N 1/2) of the northeast quarter (NE 1/4) of the southeast quarter (SE 1/4) of the northeast quarter (NE 1/4) of the southwest quarter (SW 1/4) of section 3, Township 39 North, Range 52 East, M.D.B. & M.

2. The real property that may be transferred to the Truckee Meadows Fire Protection District pursuant to subsection 2 of section 11 of this act contains approximately 1.875 acres and is commonly known as the Mount Rose Fire Station. Such real property may be described as follows:

The west half (W 1/2) of the southwest quarter (SW 1/4) of the southeast quarter (SE 1/4) of the southeast quarter (SE 1/4) of the southeast quarter (SE 1/4) and the west half (W 1/2) of the east half (E 1/2) of the southwest quarter (SW 1/4) of the southeast quarter (SE 1/4) of the southeast quarter

(SE 1/4) of the southeast quarter (SE 1/4) of section 26, Township 18 North, Range 19 East, M.D.B. & M.

3. The real property that may be transferred to Clark County pursuant to subsection 3 of section 11 of this act contains approximately 0.25 acres and is commonly known as the Mount Charleston Fire Station. Such real property may be described as follows:

That portion of the northwest quarter (NW 1/4) of the northeast quarter (NE 1/4) of section 36, Township 19 South, Range 56 East, M.D.B. & M., as described in Grant, Bargain and Sale Deeds recorded on January 12, 1962, as Document Number 272260 in Book 337 and on August 20, 1962, as Document Number 307631 in Book 381 in the Recorder's Office of Clark County, Nevada.

4. The real property that may be transferred to the Storey County Fire Protection District pursuant to subsection 4 of section 11 of this act contains approximately 1 acre and is commonly known as the Virginia City Highlands Fire Station Site. Such property may be described as follows:

That portion of the southeast quarter (SE 1/4) of the northwest quarter (NW 1/4) of section 8, Township 17 North, Range 21 East, M.D.B. & M., as described in the Grant, Bargain and Sale Deed recorded on November 20, 1979, as Document Number 45784 in Book 20 at page 179 in the Recorder's Office of Storey County, Nevada.

Sec. 14. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 15. NRS 473.010, 473.020, 473.030, 473.031, 473.032, 473.033, 473.034, 473.035, 473.0355, 473.036, 473.040, 473.050, 473.060, 473.065, 473.070, 473.080, 473.090, 473.100, 474.530 and 474.555 are hereby repealed.

Sec. 16. This act becomes effective on July 1, 2015.

LEADLINES OF REPEALED SECTIONS

473.010 "Federal aid" defined.

473.020 Institution of proceedings for formation of fire protection district: Petition by property owners.

473.030 Resolution of board of county commissioners: Adoption; contents.

473.031 Notice of proposed formation of district: Contents; publication.

473.032 Hearing; written objections; exclusion of land not benefited.

473.033 Inclusion of lands adjacent to proposed district; owner's application.

473.034 Determination; order of formation; regulations for organization of area.

473.035 Alteration of boundaries by inclusion of territory: Procedure; regulations.

473.0355 Alteration of boundaries by exclusion of territory: Procedure.

473.036 Effect of change in district's boundaries.

473.040 Board of directors: Composition.

473.050 Preparation of budgets; levy, collection, deposit and use of taxes.

473.060 Authorization to issue negotiable bonds; purpose; limitation on amount.

473.065 Activities within district which may be prohibited or restricted by State Forester Firewarden; public announcement and posting of prohibited or restricted activities; applicability; penalty.

473.070 Liability for damage by fire within district.

473.080 Collection of expenses for extinguishing fires or meeting other emergencies within district.

473.090 Unlawful burning, blasting or use of fireworks, welding torch or other devices in district; permits; exceptions; penalty.

473.100 Elimination of fire hazards.

474.530 Dissolution of district organized pursuant to chapter 473 of NRS or exclusion of portions.

474.555 Reorganization of district organized pursuant to chapter 473 of NRS.

Assemblyman Ellison moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 47.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 97.

SUMMARY—~~[Revises provisions governing the dissemination of]~~
Provides for the establishment within the Central Repository for Nevada Records of Criminal History of a service to conduct a name-based search of records of criminal history. (BDR 14-294)

AN ACT relating to criminal records; ~~[revising provisions governing the dissemination of certain records of criminal history to employers and prospective employers by an agency of criminal justice or]~~ **providing for the establishment within** the Central Repository for Nevada Records of Criminal History ~~[+]~~ **of a service to conduct a name-based search of records of criminal history of an employee, prospective employee, volunteer or prospective volunteer;** and providing other matters properly relating thereto.
Legislative Counsel's Digest:

Under existing state law, an agency of criminal justice or the Central Repository for Nevada Records of Criminal History is required to disseminate

to a current or prospective employer, upon request, certain information about the criminal history of a current or prospective employee or volunteer. (NRS 179A.100) ~~Under existing federal law, a “consumer report” is defined to include the communication of any information by a consumer reporting agency that bears upon a person’s character, general reputation and personal characteristics. (15 U.S.C. § 1681a(d)) This bill creates a legal fiction by allowing a person or entity designated to receive information about the criminal history of a current or prospective employee or volunteer on behalf of an employer to obtain such information by submitting to the Central Repository proof of the consent of an employee or volunteer allowing the employer to obtain a consumer report pursuant to 15 U.S.C. § 1681b(b)(2) in lieu of submitting a written consent of the employee or volunteer to obtain the information from the Central Repository.~~

~~This bill also specifies that a record of criminal history or the absence of such a record may be furnished to an employer by a person or entity designated to receive the information on behalf of the employer and who obtained the information pursuant to the statutory provisions governing the dissemination of such information. This bill further authorizes an agency of criminal justice to audit any employer or person or entity designated to receive records of criminal history on behalf of an agency to whom the agency has disseminated certain records for purposes of ensuring that such disseminated records are securely maintained.~~ **This bill provides for the establishment within the Central Repository of a service to conduct a name-based search of records of criminal history of an employee, prospective employee, volunteer or prospective volunteer. This bill sets forth certain requirements relating to the operation of that service, including, without limitation, provisions regarding: (1) eligibility to participate in the service; (2) fees for participation in the service; (3) the type of information that the Central Repository may release; (4) the requirements for obtaining the consent of the subject of a search for records of criminal history; (5) the authority of the Central Repository to conduct audits concerning the service; and (6) the ability of the Central Repository to terminate participation in the service under certain circumstances.**

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

Section 1. ~~{NRS 179A.100 is hereby amended to read as follows:~~

~~179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:~~

~~(a) Any which reflect records of conviction only; and~~

~~(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.~~

~~2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:~~

~~—(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.~~

~~—(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.~~

~~—(c) **Furnished to an employer by a person or entity designated to receive the information on behalf of the employer and who obtained the information pursuant to this section.**~~

~~—(d) Reported to the Central Repository.~~

~~—3. An agency of criminal justice shall, **upon request**, disseminate to a prospective **or current** employer [, upon request,], **or a person or entity designated to receive the information on behalf of such an employer**, records of criminal history concerning [a] **an employee**, prospective employee, **volunteer** or **prospective** volunteer which are the result of a name-based inquiry and which:~~

~~—(a) Reflect convictions only; or~~

~~—(b) Pertain to an incident for which the **employee**, prospective employee, **volunteer** or **prospective** volunteer is currently within the system of criminal justice, including parole or probation.~~

~~—4. **An agency of criminal justice may audit, at such times the agency deems necessary, any employer, or a person or entity designated to receive records of criminal history on behalf of an employer, to whom the agency has disseminated records of criminal history pursuant to subsection 3 for purposes of ensuring that such disseminated records are securely maintained.**~~

~~—5. In addition to any other information to which an employer is entitled or authorized to receive from a name-based inquiry, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense or the information described in subsection 7 of NRS 179B.250. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:~~

~~—(a) The name and address of the employer, and the name and signature of the person or entity requesting the information on behalf of the employer;~~

~~—(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and~~

~~—(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.~~

~~—[5.] 6. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives [written] consent to the release of that information.~~

~~—(a) In writing to the employer if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information [.] ;~~
~~or~~

~~—(b) Pursuant to 15 U.S.C. § 1681b(b)(2) to the person or entity designated to receive the information on behalf of the employer, if the person or entity so designated submits to the Central Repository proof of the consent given by the employee, prospective employee, volunteer or prospective volunteer pursuant to 15 U.S.C. § 1681b(b)(2).~~

~~→ The Central Repository shall search for and disseminate such information in the manner set forth in NRS 179A.210 for the dissemination of a notice of information.~~

~~—[6.] 7. Except as otherwise provided in subsection [5,] 6, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to an employer who requests information and to whom such information is disseminated pursuant to subsections [4 and 5.~~

~~—7.] 5 and 6.~~

~~—8. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:~~

~~—(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.~~

~~—(b) The person who is the subject of the record of criminal history when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.~~

~~—(c) The State Gaming Control Board.~~

~~—(d) The State Board of Nursing.~~

~~—(e) The Private Investigator's Licensing Board to investigate an applicant for a license.~~

~~—(f) A public administrator to carry out the duties as prescribed in chapter 253 of NRS.~~

~~—(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.~~

~~—(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.~~

~~—(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a~~

~~security investigation of an employee or prospective employee or to protect the public health, safety or welfare.~~

~~—(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.~~

~~—(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.~~

~~—(l) Any reporter for the electronic or printed media in a professional capacity for communication to the public.~~

~~—(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.~~

~~—(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.~~

~~—(o) An agency which provides child welfare services, as defined in NRS 432B.030.~~

~~—(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.~~

~~—(q) The Aging and Disability Services Division of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.~~

~~—(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.~~

~~—(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.~~

~~—(t) The Commissioner of Insurance.~~

~~—(u) The Board of Medical Examiners.~~

~~—(v) The State Board of Osteopathic Medicine.~~

~~—(w) The Board of Massage Therapists and its Executive Director.~~

~~—(x) A multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored by the Attorney General pursuant to NRS 228.495.~~

~~—(y) A court appointed special advocate program in a county whose population is less than 100,000, as needed to ensure the safety of a child for whom a special advocate has been appointed by a court.~~

~~[8.] 9. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 179A.105 is hereby amended to read as follows:~~

~~179A.105 An employer who fails to request:~~

~~1. The information contained in a record of registration concerning a volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, as authorized pursuant to subsection [4] 5 of NRS 179A.100; or~~

~~2. The information described in subsection 4 of NRS 179A.190 concerning a volunteer or prospective volunteer, as authorized pursuant to subsection [5] 6 of NRS 179A.100,~~

~~is not liable to a child served by the employer for civil damages suffered by the child as a result of an offense listed in subsection 4 of NRS 179A.190 committed against the child by such a volunteer or prospective volunteer.]~~

(Deleted by amendment.)

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.~~

~~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 is employed or seeking to become employed;~~

~~(c) The name, a complete set of fingerprints and other identifying information of the employee;~~

~~(d) Signed consent by the employee authorizing:~~

~~(1) The employer to forward the fingerprints of the employee 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; and~~

~~(3) The release of a notice concerning that information;~~

~~(e) The mailing address of the employee or a signed waiver of the right of the employee 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 indicating that the employee has been notified of:~~

~~(1) The types of information for which notice is subject to dissemination pursuant to NRS 179A.210, or a description of the information;~~

~~(2) The employer's right to require a check of the records of criminal history as a condition of employment; and~~

~~(3) The employee's right, pursuant to NRS 179A.150, to challenge the accuracy or sufficiency of any information disseminated to the employer.~~

~~3. For the purposes of paragraph (b) of subsection 6 of NRS 179A.100, a request shall be deemed to include the information required by paragraphs (d), (e) and (f) of subsection 2 if the request includes proof that the employee consented pursuant to 15 U.S.C. § 1681b(b)(2) to the procurement of a consumer report regarding himself or herself for employment purposes. As used in this subsection, "consumer report" has the meaning ascribed to it in 15 U.S.C. § 1681a(d).}~~ (Deleted by amendment.)

Sec. 4. Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby established within the Central Repository a service to conduct a name-based search of records of criminal history of an employee, prospective employee, volunteer or prospective volunteer.

2. An eligible person that wishes to participate in the service must enter into a contract with the Central Repository.

3. The Central Repository may charge a reasonable fee for participation in the service.

4. A participant of the service may inquire about the records of criminal history of an employee, prospective employee, volunteer or prospective volunteer to determine the suitability of the employee or prospective employee for employment or the suitability of the volunteer or prospective volunteer for volunteering.

5. The Central Repository shall disseminate to a participant of the service information which:

(a) Reflects convictions only; or

(b) Pertains to an incident for which an employee, prospective employee, volunteer or prospective volunteer is currently within the system of criminal justice, including parole or probation.

6. An employee, prospective employee, volunteer or prospective volunteer who is proposed to be the subject of a name-based search must provide his or her written consent for the Central Repository to perform the search and to release the information to a participant. The written consent form may be:

(a) A form designated by the Central Repository; or

(b) If the participant is an employment screening service, a form that complies with the provisions of 15 U.S.C. § 1681b(b)2 for the procurement of a consumer report.

7. An employment screening service that is designated to receive records of criminal history on behalf of an employer or volunteer organization may provide such records of criminal history to the employer or volunteer organization upon request of the employer or volunteer organization.

8. The Central Repository may audit a participant, at such times as the Central Repository deems necessary, to ensure that records of criminal history are securely maintained.

9. The Central Repository may terminate participation in the service if a participant fails:

(a) To pay the fees required to participate in the service; or
(b) To address, within a reasonable period, deficiencies identified in an
audit conducted pursuant to subsection 8.

10. As used in this section:

(a) "Consumer report" has the meaning ascribed to it in 15 U.S.C. §
1681a(d).

(b) "Eligible person" includes:

- (1) An employer.
- (2) A volunteer organization.
- (3) An employment screening service.

(c) "Employer" means a person in this State that:

- (1) Employs an employee; or
- (2) Enters into a contract with an independent contractor.

(d) "Employment" includes performing services for an employer as an
independent contractor.

(e) "Employment screening service" means a person or entity designated
by an employer or volunteer organization to provide employment or
volunteer screening services to the employer or volunteer organization.

~~{Sec. 4.}~~ **Sec. 5.** This act becomes effective upon passage and approval.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 54.

Bill read second time.

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

Amendment No. 170.

AN ACT relating to local financial administration; revising provisions governing the operation of the Committee on Local Government Finance; revising provisions relating to the management of a local government existing in a severe financial emergency; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the procedures by which certain local governments existing in a severe financial emergency may receive technical financial and other assistance from the Department of Taxation and the Committee on Local Government Finance. Existing law also requires the Nevada Tax Commission, upon determining that a local government exists in a severe financial emergency, to require by order that: (1) the Department take over the management of the local government until the severe financial emergency ceases to exist; (2) the local government increase or impose new taxes to meet the revenue requirements of the local government; and (3) under certain circumstances, a question be submitted to the electors of the local government as to whether the local government should be disincorporated or dissolved.

Existing law further provides for the cessation of the management of a local government by order of the Commission under certain circumstances. (NRS 354.105, 354.655-354.725) **Section 1** of this bill revises provisions providing for the operation of the Committee on Local Government Finance. **Sections 4 and 5** of this bill generally provide for the withholding of certain payments to which a local government may otherwise be entitled for failing to file certain financial reports or to make certain payments to the Public Employees' Benefits Program. **Section 6** of this bill requires the Department, upon making a determination that certain financial conditions exist in a local government ~~it~~ **and after giving consideration to the severity of each such condition,** to place the local government under a program of monitoring. **Section 7** of this bill establishes the process by which the Committee and the Commission determine that a local government exists in a severe financial emergency and requires the Commission, upon making such a determination, to order the local government to follow a remedial course of action. **Section 8** of this bill revises the duties of the Department upon taking over the management of a local government found to exist in a severe financial emergency ~~it~~ **, including requiring the Department to: (1) negotiate and approve employment contracts of the local government; (2) open and renegotiate, or assist the local government in renegotiating, existing collective bargaining agreements and employment contracts; and (3) meet and negotiate in good faith with creditors of the local government.** **Section 9** of this bill provides for the creation and adoption by the Commission of a remedial plan of action to increase the revenues and reduce the expenditures of the local government. The plan may provide for the imposition of additional taxes by the local government, which taxes, pursuant to **section 15** of this bill, are not subject to certain abatements and other limitations. **Section 9 further requires the Department to prepare and submit to the Legislature a report relating to local governments existing in a severe financial emergency.** **Section 11** of this bill authorizes the distribution of money in the Severe Financial Emergency Fund to a local government as a loan for the purpose of discharging the general obligations of the local government. **Section 11 further** extends the period ~~by~~ **within** which a local government may repay certain interest-free loans distributed by the Executive Director of the Department to the local government from the ~~Severe Financial Emergency Fund. If the Executive Director determines that the severe financial emergency of a local government is unlikely to end within a certain period, section 12 of this bill requires the Committee to review the findings of the Executive Director and recommend certain additional remedial actions to the Commission, including a recommendation that: (1) the county absorb the local government; or (2) the local government be reincorporated or dissolved.~~ **Fund. Section 12 of this bill authorizes the Commission to require a local government that is found to exist in a severe financial emergency to take remedial action in accordance with the recommendations of the Committee.** **Section 13** of this bill prohibits the

Commission from terminating or modifying the management of a local government by the Department without first obtaining a recommendation from the Committee.

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

Section 1. NRS 354.105 is hereby amended to read as follows:

354.105 1. The Committee on Local Government Finance, consisting of 11 members, is hereby created.

2. The following associations shall each appoint three members to serve on the Committee:

- (a) Nevada League of Cities;
- (b) Nevada Association of County Commissioners; and
- (c) Nevada ~~School Trustees~~ Association ~~[]~~ **of School Boards.**

3. The Nevada State Board of Accountancy shall appoint two members to serve on the Committee.

4. Each appointment must be for a term of 3 years ~~[]~~, **and each member appointed may be reappointed to additional terms.**

5. ~~[All vacancies]~~ **A vacancy** must be filled as soon as practicable by the appointing authority of the person who vacated the seat.

6. If any of the associations listed in subsection 2 cease to exist, the appointments required by subsection 2 must be made by the association's successor in interest or, if there is no successor in interest, one each by the other appointing authorities.

7. ***The members of the Committee shall elect by majority vote a member as Chair and another member as Vice Chair, who shall serve for terms of 3 years or until their successors are elected.***

8. ***The Committee shall meet not less than twice per year and may meet at other times upon the call of the Chair or a majority of the members of the Committee.***

9. ***A majority of the members of the Committee constitutes a quorum, and a quorum may exercise all the power and authority conferred on the Committee.***

10. ***Members of the Committee serve without compensation, except that for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the business of the Committee, the member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.***

11. ***The Department of Taxation shall provide administrative support to the Committee.***

Sec. 2. NRS 354.655 is hereby amended to read as follows:

354.655 As used in NRS 354.655 to 354.725, inclusive, unless the context requires otherwise:

1. ***"Basic function" means an activity of a local government for the purpose of accomplishing a primary service or function of the local***

government, including, without limitation, those services and functions relating to general governance, public safety, public works, public health, public welfare and judicial services or functions for which the local government is responsible.

2. “Commission” means the Nevada Tax Commission.

3. “Committee” means the Committee on Local Government Finance.

~~{2.}~~ 4. “Department” means the Department of Taxation.

~~{3.}~~ 5. “Executive Director” means the Executive Director of the Department. ~~{of Taxation.}~~

~~—4.}~~ 6. “Fiscal watch” means the monitoring of a local government pursuant to a notice issued pursuant to subsection 1 of NRS 354.675.

7. “Holder” includes, without limitation, any owner or other person described in NRS 350.530, a trustee, guarantor, insurer and credit enhancer, and a bank that issues a letter of credit.

8. “Local government” means any local government subject to the provisions of the Local Government Budget and Finance Act.

~~{5. The} every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts, districts organized pursuant to chapters 244A, 309, 318 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, irrigation districts organized pursuant to chapter 539 of NRS, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.~~

~~—8.}~~ 9. “Technical financial assistance” means assistance provided by the Department to a local government, including, without limitation, assistance with ~~auditing financial records,~~ developing budgets, reviewing contracts, analyzing cost allocations, debt management, feasibility analyses and revenue forecasting.

~~{ 9. Except as otherwise provided in subsection 7, the}~~

10. The words and terms defined in the Local Government Budget and Finance Act have the meanings ascribed to them in that act.

Sec. 3. NRS 354.657 is hereby amended to read as follows:

354.657 1. The purpose of NRS 354.655 to 354.725, inclusive, is to ~~{provide specific methods for the treatment of delinquent documents, payments, technical financial assistance and}~~ :

(a) Restore and maintain the financial solvency of any local government in financial distress;

(b) Provide basic functions for which a local government in financial distress is responsible; and

(c) Provide a tiered program of financial oversight and assistance by the State based on the existing financial conditions of a local government, including, without limitation, placing the local government on fiscal watch, providing technical financial assistance to the local government and

assisting the local government if it is found to exist in a state of severe financial emergency.

2. To accomplish the purpose set forth in subsection 1, the provisions of NRS 354.655 to 354.725, inclusive, must be broadly and liberally construed.

Sec. 4. NRS 354.665 is hereby amended to read as follows:

354.665 1. If a local government does not file a statement, report or other document as required by the provisions of NRS 350.013, **354.5945**, 354.6015, 354.6025, 354.624, 354.6245 or 387.303 within 15 days after the day on which it was due, the Executive Director shall notify the governing body of the local government in writing that the report is delinquent. The notification must be noted in the minutes of the first meeting of the governing body following transmittal of the notification.

2. If the required report is not received by the Department within 45 days after the day on which the report was due, the Executive Director shall notify the governing body that the presence of a representative of the governing body is required at the next practicable scheduled meeting of the Committee to explain the reason that the report has not been filed. The notice must be transmitted to the governing body ~~at least~~ **not less than** 5 days before the date on which the meeting will be held.

3. If an explanation satisfactory to the Committee is not provided at the meeting as requested in the notice and an arrangement is not made for the submission of the report, the Committee may instruct the Executive Director to request that the State Treasurer withhold from the local government the next distribution from the Local Government Tax Distribution Account, if the local government is otherwise entitled to receive such a distribution, ~~for or~~ the local school support tax if the local government is a school district ~~or~~ **or any other property taxes, taxes on the net proceeds of minerals or grants to which the local government may otherwise be entitled as a distribution from the State.** Upon receipt of such a request, the State Treasurer shall withhold the payment and all future payments until the State Treasurer is notified by the Executive Director that the report has been received by the Department ~~or~~. **except that the State Treasurer shall not withhold any payment necessary for the local government to make a timely payment that is due and owing to a holder.**

Sec. 5. NRS 354.671 is hereby amended to read as follows:

354.671 1. Upon receipt of notification by the Board of the Public Employees' Benefits Program pursuant to NRS 287.0434 that a local government is delinquent by more than 90 days on an amount due to the Public Employees' Benefits Program pursuant to paragraph (b) of subsection 4 of NRS 287.023, the Executive Director shall notify the governing body that the presence of a representative of the governing body is required at the next practicable scheduled meeting of the Committee to explain the reason that the payment has not been made. The notice must be transmitted to the governing body at least 5 days before the date on which the meeting will be held.

2. If an explanation satisfactory to the Committee is not provided at the meeting as requested in the notice and an arrangement is not made for the submission of the payment, the Committee may instruct the Executive Director to request that the State Treasurer withhold from the local government an amount equal to the amount of the delinquent payment from the next distribution from the Local Government Tax Distribution Account, if the local government is otherwise entitled to receive such a distribution, ~~for or~~ the local school support tax if the local government is a school district ~~or~~ **or any other property taxes, taxes on the net proceeds of minerals or grants to which the local government may otherwise be entitled as a distribution from the State.** Upon receipt of such a request, the State Treasurer shall withhold that amount from the payment or any future payment as necessary until the State Treasurer is notified by the Executive Director that the delinquent payment has been received by the Department ~~or~~, **except that the State Treasurer shall not withhold any payment necessary for the local government to make a timely payment that is due and owing to a holder.** The Department shall transmit the delinquent payment to the Public Employees' Benefits Program upon receipt.

Sec. 6. NRS 354.675 is hereby amended to read as follows:

354.675 1. ~~{A governing body which determines that the local government is in need of technical financial assistance may adopt a resolution requesting an appearance before the Nevada Tax Commission to request technical financial assistance from the Department.}~~ **If the Department determines that one or more of the conditions identified in paragraphs (a) to (aa), inclusive, of subsection 2 of NRS 354.685 exist in a local government, and after giving consideration to the severity of each such condition, the Department shall provide written notice to the local government, the Commission and the Committee that the local government has been placed on fiscal watch by the Department. The Department shall not remove a local government from fiscal watch until the Executive Director determines that such conditions no longer exist or the Executive Director submits a recommendation to the Committee pursuant to subsection 2 of NRS 354.685.**

2. ***If a local government is placed on fiscal watch pursuant to subsection 1, the governing body of the local government may adopt a resolution requesting the Commission to order the Department, in consultation with the local government and the Committee, to provide appropriate technical financial assistance to the local government.***

3. Upon receipt of a resolution adopted pursuant to subsection ~~{1.}~~ 2, the Nevada Tax Commission shall place the request for technical financial assistance on the agenda for the next practicable scheduled meeting of the Commission and notify the governing body of the local government of the time and place at which one or more representatives of the local government must appear to present the request.

~~{3.}~~ 4. After hearing the request for technical financial assistance ~~or~~ **and any recommendations of the Committee**, if the Nevada Tax Commission finds that the local government is in need of technical financial assistance, ~~that~~ **the**

Commission shall order the Department to provide the assistance. The order must include such terms and conditions as the Commission deems appropriate and may include a schedule or rate of payment for the services of the Department.

~~{4.}~~ 5. If the governing body adopts a resolution accepting the terms and conditions established pursuant to subsection ~~{3.}~~ 4, the Department shall provide such technical financial assistance to the local government as the Department deems necessary and appropriate.

~~{5.}~~ 6. The Department may request **from the Committee** any assistance it deems appropriate to carry out the provisions of this section . ~~from the Committee.~~

~~—6.}~~ 7. The Department shall continue to provide assistance to the local government pursuant to this section until the Nevada Tax Commission ~~{adopts}~~ **issues** an order requiring the Department to cease providing the assistance. The Nevada Tax Commission may ~~{adopt}~~ **issue** such an order upon its own motion , ~~{or}~~ upon receipt of a **request for such an order from the Department or the Committee, or upon receipt of a** resolution adopted by the governing body requesting such an order.

~~{7.}~~ 8. If no payment for the services of the Department is required by the order or such payments are not sufficient to pay the costs of providing the technical financial assistance required pursuant to this section, the Department may request an allocation by the Interim Finance Committee from the Contingency Account pursuant to NRS 353.266, 353.268 and 353.269 to pay the costs of providing the technical financial assistance required pursuant to this section.

Sec. 7. NRS 354.685 is hereby amended to read as follows:

354.685 1. ~~{H}~~ ***The Committee may, upon the recommendation of the Executive Director pursuant to subsection 2 or at the request of a local government pursuant to subsection 3, conduct one or more hearings to determine whether a severe financial emergency exists in a local government.***

2. ***The Executive Director may, after giving consideration to the severity of each condition identified in paragraphs (a) to (aa), inclusive, which is found to exist in a local government, recommend that the Committee conduct one or more hearings to determine whether a severe financial emergency exists in a local government if*** the Department finds that one or more of the following conditions exist in ~~{any}~~ **the** local government : ~~{, after giving consideration to the severity of the condition, it may determine that one or more hearings should be conducted to determine the extent of the problem and to determine whether a recommendation of severe financial emergency should be made to the Nevada Tax Commission.}~~

(a) Required financial reports have not been filed or are consistently late.

(b) The audit report reflects the unlawful expenditure of money in excess of the amount appropriated in violation of the provisions of NRS 354.626.

(c) The audit report shows funds with deficit fund balances.

- (d) The local government has incurred debt beyond its ability to repay.
- (e) The local government has not corrected violations of statutes or regulations adopted pursuant thereto as noted in the audit report.
- (f) The local government has serious internal control problems noted in the audit report which have not been corrected.
- (g) The local government has a record of being late in its payments for services and supplies.
- (h) The local government has had insufficient cash to meet required payroll payments in a timely manner.
- (i) The local government has borrowed money or entered into long-term lease arrangements without following the provisions of NRS or regulations adopted pursuant thereto.
- (j) The governing body of the local government has failed to correct problems after it has been notified of such problems by the Department.
- (k) The local government has not separately accounted for its individual funds as required by chapter 354 of NRS.
- (l) The local government has invested its money in financial instruments in violation of the provisions of chapter 355 of NRS.
- (m) The local government is in violation of any covenant in connection with any debt issued by the local government.
- (n) The local government has not made bond and lease payments in accordance with the approved payment schedule.
- (o) The local government has failed to control its assets such that large defalcations have occurred which have impaired the financial condition of the local government.
- (p) The local government has recognized sizeable losses as a result of the imprudent investment of money.
- (q) The local government has allowed its accounting system and recording of transactions to deteriorate to such an extent that it is not possible to measure accurately the results of operations or to ascertain the financial position of the local government without a reconstruction of transactions.
- (r) The local government has consistently issued checks not covered by adequate deposits.
- (s) The local government has loaned and borrowed money between funds without following the proper procedures.
- (t) The local government has expended money in violation of the provisions governing the expenditure of that money.
- (u) Money restricted for any specific use has been expended in violation of the terms and provisions relating to the receipt and expenditure of that money.
- (v) Money has been withheld in accordance with the provisions of NRS 354.665.
- (w) If the local government is a school district, a loan has been made from the State Permanent School Fund to the school district pursuant to NRS 387.526.

(x) An employer in the county that accounts for more than 15 percent of the employment in the county has closed or significantly reduced operations.

(y) The local government has experienced a cumulative decline of 10 percent in population or assessed valuation for the past 2 years.

(z) The ending balance in the general fund of the local government has declined for the past 2 years ~~1-1~~ **or is less than 4 percent of the actual expenditures from the general fund of the local government for the immediately preceding fiscal year.**

(aa) The local government has failed to pay, in a timely manner, contributions to the Public Employees' Retirement System, workers' compensation or payroll taxes or fails to pay, at any time, a payment required pursuant to the Federal Insurance Contributions Act ~~1-~~ **2-1**, 26 U.S.C. §§ 3101 et seq., or the Federal Unemployment Tax Act, 26 U.S.C. §§ 3301 et seq.

3. If the governing body of a local government determines by the affirmative vote of a majority of its members that, because the local government is involved in litigation or threatened litigation, a severe financial emergency will exist in the local government, the governing body may submit a request to the Committee to conduct a hearing to determine whether a severe financial emergency exists in the local government.

4. If the ~~Department~~ Committee conducts a hearing pursuant to subsection 2 or 3 and determines that a ~~condition listed in subsection 1~~ severe financial emergency exists, the Department, on behalf of the Committee, shall:

- (a) Notify the local government about the determination;
- (b) Request from the local government any information that the Department deems to be appropriate to determine the extent of the condition; and
- (c) Require the local government to formulate a plan of corrective action to mitigate the possible financial emergency.

~~{3.—Within}~~

5. Not later than 45 days after receiving notification pursuant to subsection ~~{2-}~~ 4, a local government shall submit to the Committee any information requested by the Department and a plan of corrective action.

~~{4.—The}~~

6. If the Committee determines that a severe financial emergency exists pursuant to subsection 4, the Committee shall:

- (a) Review ~~1-a~~ **the** plan of corrective action submitted by a local government ~~1-1~~ **pursuant to paragraph (c) of subsection 4;**
- (b) Provide observations and recommendations for the local government; and
- (c) If the Committee deems necessary, periodically review the status of **and conduct additional hearings to review** the financial operations of the local government.

~~{5.—The Department shall report the observations and recommendations of the Committee to the Nevada Tax Commission.~~

~~6.]~~ 7. In addition to any notice otherwise required, the Department shall give notice of any hearing held pursuant to ~~subsection 1]~~ **this section** to the governing body of each local government whose jurisdiction overlaps with , **or in the case of a city, whose jurisdiction is contiguous to**, the jurisdiction of the local government whose financial condition will be considered at least 10 days before the date on which the hearing will be held.

~~7.]~~ 8. If the ~~Department,~~ **Committee**, following ~~the]~~ **a hearing for hearings,** **conducted pursuant to this section**, determines that a ~~recommendation of]~~ severe financial emergency ~~should be made to the Nevada Tax Commission, it]~~ **exists in a local government, the Committee** shall , ~~make such a recommendation]~~ as soon as practicable ~~[- Upon receipt of such a recommendation, the Nevada Tax]~~ , **provide notice of its findings, including any recommendations of the Committee, to the Commission.**

9. **The** Commission shall , **upon receiving a notice and any recommendations from the Committee pursuant to subsection 8**, hold a hearing at which the Department ~~]~~ **and the Committee must recommend a course of action to mitigate the financial conditions that are the cause of the severe financial emergency which exists in the local government. The Commission shall afford the** local government whose financial condition will be considered and each local government whose jurisdiction overlaps with , **or in the case of a city, whose jurisdiction is contiguous to**, the jurisdiction of the local government whose financial condition will be considered ~~are afforded]~~ an opportunity to be heard. If, after the hearing, the Nevada Tax Commission determines that a severe financial emergency exists, ~~it]~~ **the Commission shall require by]** **issue an order that]** **requiring the local government to follow a remedial course of action and requiring the Department to take over the management of the local government as soon as practicable.**

~~8. — As used in this section, “Federal Insurance Contributions Act” means subchapter A of chapter 9 of the Internal Revenue Code of 1939 and subchapters A and B of chapter 21 of the Internal Revenue Code of 1954, as such codes have been and may from time to time be amended.]~~

Sec. 8. NRS 354.695 is hereby amended to read as follows:

354.695 1. As soon as practicable after taking over the management of a local government, the Department shall, with the approval of the Committee:

(a) Establish and implement a management policy and a financing plan for the local government;

(b) Provide for the appointment of a financial manager for the local government who is qualified to manage the fiscal affairs of the local government;

(c) Provide for the appointment of any other persons necessary to enable the local government to provide the basic services for which it was created in the most economical and efficient manner possible;

(d) Establish an accounting system and separate accounts in a bank or credit union, if necessary, to receive and expend all money and assets of the local government;

(e) Impose such hiring restrictions as deemed necessary ; ~~{after considering the recommendations of the financial manager;}~~

(f) Negotiate and approve all contracts entered into by or on behalf of the local government before execution and enter into such contracts on behalf of the local government as the Department deems necessary;

(g) ~~Negotiate and approve {Except as otherwise provided in subsection 2, assume all the rights and obligations of the local government under any}~~ all collective bargaining contracts and other employment contracts to be entered into by the local government ~~++ with an employee organization or any employee~~ , except that the Department shall not negotiate or approve issues submitted to a fact finder whose findings and recommendations are final and binding pursuant to the provisions of the Local Government Employee-Management Relations Act;

(h) *If the Committee made a recommendation to the Commission that a severe financial emergency exists in the local government based upon the existence of one or more conditions described in paragraph (c), (d), (g), (h), (n) to (p), inclusive, (r) or (aa) of subsection 2 of NRS 354.685:*

(1) Open and renegotiate in good faith, or assist the local government in renegotiating, any existing collective bargaining agreement or other employment contract relating to compensation or monetary benefits during the period of severe financial emergency; and

(2) Assume all rights, duties and powers pursuant to NRS 288.150 that are otherwise reserved to the local government during a period of severe financial emergency;

(i) Approve all expenditures of money from any fund or account and all transfers of money from one fund to another;

~~{(i)}~~ *(j)* Employ such technicians as are necessary for the improvement of the financial condition of the local government;

~~{(j)}~~ *(k)* Meet with *any holders and* the creditors of the local government *to negotiate in good faith* and formulate a debt liquidation program ~~{; that may include, without limitation, the adjustment of bonded indebtedness by the exchange of existing bonds for new bonds with a later maturity date and a different interest rate;~~

~~{(k)}~~ *(l)* If the Department has taken over the management of a local government because the local government is involved in litigation or threatened litigation, carry out the duties ~~{set forth in NRS 354.701, if the provisions of that section are applicable;}~~ *of the Department pursuant to subsection 2 of NRS 31.010;*

~~{(l)}~~ *(m)* Approve the issuance of bonds or other forms of indebtedness by the local government;

~~{(m)}~~ *(n)* Discharge any of the outstanding debts and obligations of the local government; and

~~[(n)]~~ **(o)** Take any other actions necessary to ensure that the local government provides the basic ~~[services]~~ **functions** for which it was created in the most economical and efficient manner possible.

2. ~~[[The Department may, after taking over the management of a local government and with the approval of the Committee, suspend in whole or in part any collective bargaining agreement of the local government until the Department's management of the local government ceases or is terminated.]]~~

~~==3.1~~ The Department may provide for reimbursement from the local government for the expenses the Department incurs in managing the local government. If such reimbursement is not possible, the Department may request an allocation by the Interim Finance Committee from the Contingency Account pursuant to NRS 353.266, 353.268 and 353.269.

3. ~~[[4.1]]~~ The governing body of a local government which is being managed by the Department pursuant to this section may make recommendations to the Department or the financial manager concerning the management of the local government.

4. ~~[[5.1]]~~ Each state agency, board, department, commission, committee or other entity of the State shall provide such technical **financial** assistance concerning the management of the local government as is requested by the Department.

5. ~~[[6.1]]~~ The Department may delegate any of the powers and duties imposed by this section to the financial manager appointed pursuant to paragraph (b) of subsection 1.

~~[[6.1]]~~ ***A financial manager acting within the scope of his or her delegation pursuant to this subsection is responsible only to the Department for his or her actions.***

~~[[7.1]]~~ **6.** Except as otherwise provided in NRS 354.723 and 450.760, once the Department has taken over the management of a local government pursuant to the provisions of subsection 1, that management may only be terminated pursuant to NRS 354.725.

Sec. 9. NRS 354.705 is hereby amended to read as follows:

354.705 1. As soon as practicable after the Department takes over the management of a local government, the Executive Director shall ~~[[1]]~~ ***prepare a plan of revenue enhancement and expense mitigation, for consideration by the Committee, that will lead to sustainable financial stability for the local government. In preparing the plan, the Executive Director shall:***

(a) Determine the total amount of expenditures necessary to allow the local government to perform the basic functions for which it was created ~~[[1]]~~, ***with priority given to public safety and the maintenance of roads and highways;***

(b) Determine the amount of revenue reasonably expected to be available to the local government; and

(c) Consider any alternative sources of revenue available to the local government.

2. ~~[[If the]]~~ ***The Executive Director shall submit the plan prepared pursuant to subsection 1 to the Committee. If the Committee determines that***

the available revenue *of the local government* is not sufficient to provide for the payment of required debt service and operating expenses ~~{-} pursuant to the {Executive Director may submit his or her findings to}~~ **plan**, the Committee ~~{who shall review the determinations made by the Executive Director. If the Committee determines that additional revenue is needed, it shall prepare}~~ **shall submit a {recommendation} revised plan** to the ~~{Nevada Tax}~~ Commission as to which one or more of the following additional taxes or charges should be imposed by the local government:

(a) The levy of a property tax up to a rate which when combined with all other overlapping rates levied in the State does not exceed \$4.50 on each \$100 of assessed valuation.

(b) An additional tax on transient lodging at a rate not to exceed 1 percent of the gross receipts from the rental of transient lodging within the boundaries of the local government upon all persons in the business of providing lodging. Any such tax must be collected and administered in the same manner as all other taxes on transient lodging are collected by or for the local government.

(c) Additional service charges appropriate to the local government.

(d) If the local government is a county or has boundaries that are coterminous with the boundaries of the county:

(1) An additional tax on the gross receipts from the sale or use of tangible personal property not to exceed one-quarter of 1 percent throughout the county. The ordinance imposing any such tax must:

(I) Include provisions in substance which comply with the requirements of subsections 2 to 5, inclusive, of NRS 377A.030. The ordinance shall be deemed to require the remittance of the tax to the Department and the distribution of the tax to the local government in the same manner as that provided in NRS 377A.050.

(II) Specify the date on which the tax must first be imposed or on which a change in the rate of the tax becomes effective, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

(2) An additional governmental services tax of not more than 1 cent on each \$1 of valuation of the vehicle for the privilege of operating upon the public streets, roads and highways of the county on each vehicle based in the county except those vehicles exempt from the governmental services tax imposed pursuant to chapter 371 of NRS or a vehicle subject to NRS 706.011 to 706.861, inclusive, which is engaged in interstate or intercounty operations. As used in this subparagraph, "based" has the meaning ascribed to it in NRS 482.011.

3. Upon receipt of the plan from the Committee, a panel consisting of three members of the Nevada Tax Commission appointed by the Nevada Tax Commission and three members of the Committee appointed by the Committee shall hold a public hearing at a location within the boundaries of the local government in which the severe financial emergency exists after giving public notice of the hearing at least 10 days before the date on which

the hearing will be held. In addition to the public notice, the panel shall give notice to the governing body of each local government whose jurisdiction overlaps with , ***or in the case of a city, whose jurisdiction is contiguous to,*** the jurisdiction of the local government in which the severe financial emergency exists.

4. After the public hearing conducted pursuant to subsection 3, the Nevada Tax Commission may adopt the plan as submitted or adopt a revised plan. ***If the Commission adopts a revised plan, the revised plan must be approved by the members of the Committee serving on the panel described in subsection 3.*** Any plan adopted pursuant to this section must include the duration for which any new or increased taxes or charges may be collected which must not exceed 5 years.

5. Upon adoption of the plan by the Nevada Tax Commission, the local government in which the severe financial emergency exists shall impose or cause to be imposed the additional taxes and charges included in the plan for the duration stated in the plan or until the severe financial emergency has been determined by the ~~[Nevada Tax Commission]~~ ***Committee*** to have ceased to exist. ***Any levy of additional property tax applies to all taxpayers, regardless of whether the taxes previously imposed have been partially or fully paid pursuant to NRS 361.483.***

6. The allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811 does not apply to any additional property tax levied pursuant to this section.

7. If a plan fails to satisfy the expenses of the local government to the extent expected, the Committee shall report such failure to:

(a) The county for consideration of absorption of services; or

(b) If the local government is a county, to the next regular session of the Legislature.

8. For any local government that is found to exist in a severe financial emergency, the Department shall:

(a) Prepare a report regarding the financial condition of the local government not less frequently than once every 6 months until the severe financial emergency ceases; and

(b) Not later than 10 days after preparing a report pursuant to paragraph (a), submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, if the Legislature is in session, or to the Legislative Commission, if the Legislature is not in session.

Sec. 10. NRS 354.715 is hereby amended to read as follows:

354.715 **1.** If a local government ***or any officer or employee of the local government*** fails to comply with any request made by the Department pursuant to NRS 354.695, the Department may apply to the district court to compel compliance.

2. ***In any proceeding brought pursuant to subsection 1, the Department may seek a declaration by the district court that the failure to comply with the request of the Department was willful. A willful failure to comply by any:***

(a) Officer of the local government works a forfeiture of his or her office.

(b) Employee of the local government is grounds for dismissal from his or her employment.

3. Any officer or employee of the local government who willfully fails to comply with any request made by the Department pursuant to NRS 354.695 is guilty of a gross misdemeanor.

Sec. 11. NRS 354.721 is hereby amended to read as follows:

354.721 1. The Severe Financial Emergency Fund is hereby created in the State Treasury as a revolving fund. The Executive Director shall administer the Fund.

2. The money in the Fund must be invested as other state funds are invested. Any interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund.

3. Money in the Severe Financial Emergency Fund may be:

(a) Distributed by the Executive Director as a loan to a local government for the purpose of paying the operating expenses and general obligations of the local government until the local government receives revenues if:

(1) The Department takes over the management of a local government pursuant to NRS 354.685 to 354.725, inclusive;

(2) The Executive Director determines that a loan from the Severe Financial Emergency Fund is necessary to pay the operating expenses and general obligations of the local government; and

(3) The local government adopts a resolution in which the local government agrees to:

(I) Use the money only for the purpose of paying the operating expenses and general obligations of the local government until the local government receives revenues; and

(II) Repay the entire amount of the loan, without any interest, to the Severe Financial Emergency Fund as soon as practicable, but not later than ~~12~~ 24 months after the date on which the resolution is adopted.

(b) Used for any other purpose authorized by the Legislature.

4. A loan approved by the Executive Director must be repaid as soon as practicable by the local government, but the duration of the loan must not exceed ~~12~~ 24 months after the date on which the loan was made. The Executive Director shall not charge interest on a loan made pursuant to this section.

5. The Executive Director shall report to the Committee on Local Government Finance and to the Nevada Tax Commission as soon as practicable after the date that the loan is approved concerning:

(a) The status of the loan;

(b) The purposes for which the local government will use the money from the loan; and

(c) The resources that the local government will use to repay the loan.

Sec. 12. NRS 354.723 is hereby amended to read as follows:

354.723 1. If the Executive Director determines that a severe financial emergency which exists in a local government under management by the Department is unlikely to cease to exist within 3 years, the Executive Director shall determine:

(a) The amount any tax or mandatory assessment levied by the local government must be raised to ensure a balanced budget for the local government; and

(b) The manner in which the services provided by the local government must be limited to ensure a balanced budget for the local government,

➔ and submit his or her findings to the Committee.

2. The Committee shall review the findings submitted by the Executive Director pursuant to subsection 1. If the Committee determines that the severe financial emergency which exists in the local government is unlikely to cease to exist within 3 years and that the findings made by the Executive Director are appropriate, the Committee shall submit its recommendation **and findings** to the Nevada Tax Commission. ~~The Committee may recommend:~~

~~(a) That the county absorb the local government;~~

~~(b) Disincorporation or dissolution of the local government; or~~

~~(c) Any other action or remedy that the Committee deems appropriate.~~

➔ If the Committee determines that the financial emergency is likely to cease to exist within 3 years, that decision is not subject to review by the Nevada Tax Commission.

3. The Nevada Tax Commission shall schedule a public hearing ~~within~~ **not later than** 30 days after the Committee submits its recommendation ~~and findings~~. The Nevada Tax Commission shall provide public notice of the hearing at least 10 days before the date on which the hearing will be held. The Executive Director shall provide copies of all documents relevant to the recommendation **and findings** of the Committee to the governing body of the local government **existing** in a severe financial emergency.

4. If, after the public hearing, the Nevada Tax Commission ~~determines that~~ **adopts** the recommendation **and findings** of the Committee ~~is appropriate~~, **the Commission may:**

(a) **Require the submission of** a question ~~must be submitted~~ to the electors of the local government at the next primary or general municipal election or primary or general state election, as applicable, asking whether the local government should be disincorporated or dissolved ~~and~~; **or**

(b) **Require the local government to take any other remedial action in accordance with the recommendation and findings of the Committee.**

5. If the electors of the local government do not approve the disincorporation or dissolution of the local government:

(a) The maximum ad valorem tax levied within the local government, if any, must be raised to \$5 on each \$100 of assessed valuation;

(b) Any other taxes or mandatory assessments levied in the local government, notwithstanding any limitation on those taxes or assessments provided by statute, must be raised in an amount the Nevada Tax Commission

determines is necessary to ensure a balanced budget for the local government; and

(c) The services provided by the local government must be limited in a manner the Nevada Tax Commission determines is necessary to ensure a balanced budget for the local government.

~~5.1~~ 6. If the electors of the local government approve the disincorporation or dissolution of a local government that is:

(a) Created by another local government, it must be disincorporated or dissolved:

(1) Pursuant to the applicable provisions of law; or

(2) If there are no specific provisions of law providing for the disincorporation or dissolution of the local government, by the entity that created the local government. If, at the time of the disincorporation or dissolution of the local government pursuant to this paragraph, there are any outstanding loans or bonded indebtedness of the local government, including, without limitation, loans made to the local government by the county in which the local government is located, the taxes for the payment of the bonds or other indebtedness must continue to be levied and collected in the same manner as if the local government had not been disincorporated or dissolved until all outstanding indebtedness is repaid, but for all other purposes the local government shall be deemed disincorporated or dissolved at the time that the entity which created the local government disincorporates or dissolves the local government. Any other liabilities and any remaining assets shall revert to the entity that created the local government which is being disincorporated or dissolved.

(b) Created by a special or local act of the Legislature, it may only be disincorporated or dissolved by the Legislature. The Executive Director shall submit notification of the vote approving the disincorporation or dissolution of the local government to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. At the first opportunity, the Legislature shall consider the question of whether the special or local act will be repealed.

(c) Created in any other manner, it must be disincorporated or dissolved:

(1) Pursuant to the applicable provisions of law; or

(2) If there are no specific provisions of law providing for the disincorporation or dissolution of the local government, by the governing body of that local government. If, at the time of the disincorporation or dissolution of the local government pursuant to this paragraph, there are any outstanding loans or bonded indebtedness of the local government, including, without limitation, loans made to the local government by the county or counties in which the local government is located, the taxes for the payment of the bonds or other indebtedness must continue to be levied and collected in the same manner as if the local government had not been disincorporated or dissolved until all outstanding indebtedness is repaid, but for all other purposes the local government shall be deemed disincorporated or dissolved at the time that the governing body of the local government disincorporates or dissolves the local

government. Except as otherwise provided in this subparagraph, any other liabilities and any remaining assets of the local government shall revert to the board of county commissioners of the county in which the local government is located. If the local government is located in more than one county, the governing body of the local government shall apportion the remaining liabilities and assets among the boards of county commissioners of the counties in which the local government is located.

~~{6. Within}~~

7. ***Not later than*** 10 days after the Nevada Tax Commission ~~{makes a determination}~~ ***requires the submission of a question to the electors to disincorporate or dissolve a local government*** pursuant to subsection 4, the Executive Director shall notify:

- (a) The city clerk, if the local government is a city; or
- (b) The county clerk in all other cases,

↪ and provide the clerk with the amount any tax or mandatory assessment levied by the local government must be raised and a description of the manner in which the services provided by the local government must be limited to ensure a balanced budget for the local government.

~~{7.}~~ 8. After the Executive Director notifies the city clerk or the county clerk, as applicable, pursuant to subsection ~~{6.}~~ 7, the clerk shall cause to be published in a newspaper of general circulation that is printed in the local government a notice of the election once in each calendar week for 2 successive calendar weeks by two weekly insertions a week apart, the first publication to be not more than 30 days nor less than 22 days next preceding the date of the election. If no newspaper is printed in the local government, publication of the notice of election must be made in a newspaper printed in this State and having a general circulation in the local government.

~~{8.}~~ 9. The notice required pursuant to subsection ~~{7.}~~ 8 must contain the following information:

(a) That the Nevada Tax Commission has determined that the severe financial emergency which exists in the local government is unlikely to cease to exist within 3 years;

(b) That the question of whether the local government should be disincorporated or dissolved will be submitted to the electors of the local government at the next primary or general municipal election or the next primary or general state election, as applicable; and

(c) That if the electors do not approve the disincorporation or dissolution:

(1) The maximum ad valorem tax levied within the local government, if any, will be raised to \$5 on each \$100 of assessed valuation;

(2) Any taxes or mandatory assessment levied in the local government will be raised to ensure a balanced budget for the local government and the amount by which those taxes or mandatory assessments will be raised; and

(3) The services the local government provides will be limited to ensure a balanced budget for the local government and the manner in which those services will be limited.

~~{9-}~~ 10. If any provisions providing generally for the disincorporation or dissolution of the local government require that the question of disincorporating or dissolving be published or submitted to a vote of the electors of the local government, the publication required by subsection 3 and the election required by subsection 4 satisfy those requirements. If:

(a) There is any other conflict between the provisions of this section and any provisions providing generally for the disincorporation or dissolution of a local government; or

(b) The provisions providing generally for the disincorporation or dissolution of a local government provide additional rights to protest the disincorporation or dissolution of a local government not provided by this section,

☞ the provisions of this section control a disincorporation or dissolution pursuant to this section and any person wishing to protest such a disincorporation or dissolution must proceed in accordance with the provisions of this section.

~~{10-}~~ 11. As used in this section, “local government” does not include a county, a school district or any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

Sec. 13. NRS 354.725 is hereby amended to read as follows:

354.725 1. The Nevada Tax Commission may, on its own motion or at the request of a local government ~~{-}~~ **or the Committee**, terminate the management of a local government by the Department at any time upon a finding that the severe financial emergency has ceased to exist.

2. The governing body of a local government which has complied with all requests made by the Department pursuant to NRS 354.695 may petition the Nevada Tax Commission for termination or modification of the management of the local government by the Department or of any request made by the Department pursuant to NRS 354.695.

3. ***The Commission shall not terminate or modify the management of a local government pursuant to subsection 1 or 2 without first obtaining a recommendation from the Committee as to the termination or modification.***

4. The Nevada Tax Commission shall provide notice, a hearing and a written decision on each such petition.

~~{4-}~~ 5. In determining whether a condition of severe financial emergency should be terminated, the Nevada Tax Commission shall give consideration to the following:

(a) The local governing body has shown a desire and capability to manage the financial affairs of the local government in accordance with the provisions of NRS.

(b) The local government has staff available with sufficient financial expertise that they can adequately control the finances of the local government.

(c) All violations of statutes have been corrected.

(d) The local government has no funds with deficit fund balances.

(e) The local government has increased ~~their~~ **its** revenues or made appropriate expenditure reductions so that it is anticipated ~~they~~ **that it** can operate for the next fiscal year in a positive cash and fund balance position ~~it~~ **without imposing any increased or additional tax pursuant to NRS 354.705.**

(f) The governing body has expressed a determination through a resolution submitted to the Department of Taxation to manage ~~their~~ **the** affairs **of the local government** in accordance with **the provisions of** NRS relating to financial matters and utilizing sound accounting and financial management practices.

~~5.1~~ **6.** The Nevada Tax Commission may require the governing body to submit special reports to the Department for a period not to exceed 5 years as a condition of terminating the management of the local government by the Department.

~~6.1~~ **7.** When a petition relating to a specific request is denied, the governing body may not resubmit a petition to terminate or modify that request until 3 months following the date of denial.

Sec. 14. NRS 31.010 is hereby amended to read as follows:

31.010 1. Except as otherwise provided in subsection 2, the plaintiff at the time of issuing the summons, or at any time thereafter, may apply to the court for an order directing the clerk to issue a writ of attachment and thereby cause the property of the defendant to be attached as security for the satisfaction of any judgment that may be recovered, unless the defendant gives security to pay such judgment as provided in this chapter.

2. If the Department of Taxation has taken over the management of a local government **at the request of the local government** pursuant to ~~the provisions of NRS 354.686,~~ **subsection 3 of NRS 354.685,** and if a plaintiff is allowed by law to apply to a court for an order directing the clerk to issue a writ of attachment, the ~~plaintiff must comply with the applicable provisions of NRS 354.701 before applying for such an order.~~ **action must be stayed until the following conditions have been satisfied:**

(a) The plaintiff must meet with the Department to formulate a program for the liquidation of the debt owed by the local government to the plaintiff; and

(b) The Department must adopt a program for the liquidation of the debt owed by the local government to the plaintiff as described in paragraph (a). The Department shall formulate the program not later than 60 days after meeting with the plaintiff pursuant to paragraph (a). The formulation of the program is a final decision for the purposes of judicial review.

Sec. 15. NRS 361.4726 is hereby amended to read as follows:

361.4726 1. Except as otherwise provided by specific statute, if any legislative act which becomes effective after April 6, 2005, imposes a duty on a taxing entity to levy a new ad valorem tax or to increase the rate of an existing ad valorem tax, the amount of the new tax or increase in the rate of the existing tax is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.

2. The amount of any tax imposed pursuant to NRS **354.705 and** 387.3288 is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.

3. For the purposes of this section, “taxing entity” does not include the State.

Sec. 16. NRS 450.090 is hereby amended to read as follows:

450.090 1. In any county whose population is 700,000 or more, the board of county commissioners is, ex officio, the board of hospital trustees, and the county commissioners shall serve as hospital trustees during their terms of office as county commissioners.

2. In any county whose population is less than 700,000, the board of county commissioners may enact an ordinance providing that the board of county commissioners is, ex officio, the board of hospital trustees. If such an ordinance is enacted in a county:

(a) The county commissioners shall serve as hospital trustees during their terms of office as county commissioners; and

(b) If hospital trustees have been elected pursuant to NRS 450.070 and 450.080, the term of office of each hospital trustee who is serving in that capacity on the effective date of the ordinance is terminated as of the effective date of the ordinance.

3. A board of county commissioners shall not enact an ordinance pursuant to subsection 2 unless it determines that:

(a) The county has fully funded its indigent care account created pursuant to NRS 428.010;

(b) The county has fulfilled its duty to reimburse the hospital for indigent care provided to qualified indigent patients; and

(c) During the previous calendar year:

(1) At least one of the hospital’s accounts payable was more than 90 days in arrears;

(2) The hospital failed to fulfill its statutory financial obligations, such as the payment of taxes, premiums for industrial insurance or contributions to the Public Employees’ Retirement System;

(3) One or more of the conditions relating to financial emergencies set forth in subsection ~~1~~ 2 of NRS 354.685 existed at the hospital; or

(4) The hospital received notice from the Federal Government or the State of Nevada that the certification or licensure of the hospital was in imminent jeopardy of being revoked because the hospital had not carried out a previously established plan of action to correct previously noted deficiencies found by the regulatory body.

4. Except in counties where the board of county commissioners is the board of hospital trustees, in any county whose population is 100,000 or more but less than 700,000, the board of hospital trustees for the public hospital must be composed of the five regularly elected or appointed members, and, in addition, three county commissioners selected by the chair of the board of

county commissioners shall serve as voting members of the board of hospital trustees during their terms of office as county commissioners.

5. Except in counties where the board of county commissioners is the board of hospital trustees, in any county whose population is less than 100,000, the board of hospital trustees for the public hospital must be composed of the five regularly elected or appointed members, and, in addition, the board of county commissioners may, by resolution, provide that:

(a) One county commissioner selected by the chair of the board of county commissioners shall serve as a voting member of the board of hospital trustees during his or her term of office as county commissioner;

(b) A physician who is the chief of the staff of physicians for the public hospital shall serve as a voting member of the board of hospital trustees; or

(c) Both a county commissioner appointed pursuant to the provisions of paragraph (a) and a physician appointed pursuant to the provisions of paragraph (b) shall serve as voting members of the board of hospital trustees.

➡ The term of office of a member appointed pursuant to the provisions of paragraph (b) is 2 years and begins on the date the board of county commissioners appoints the member.

Sec. 17. NRS 450.620 is hereby amended to read as follows:

450.620 1. Except as otherwise provided in subsection 2 and NRS 450.625, if a hospital district is created pursuant to NRS 450.550 to 450.750, inclusive, the board of county commissioners shall provide by ordinance for:

(a) The number of members of the board of trustees;

(b) The term of office of the trustees, which must not exceed 4 years; and

(c) The times and manner of the election of the trustees, which must be nonpartisan.

2. If a hospital district specified in subsection 1 does not include territory within more than one county, the board of county commissioners may enact an ordinance providing that the board of county commissioners is, ex officio, the board of hospital trustees of the district hospital. If such an ordinance is enacted in a county:

(a) The county commissioners shall serve as the hospital trustees of the district hospital during their terms of office as county commissioners; and

(b) If hospital trustees have been elected pursuant to subsection 1, the term of office of each hospital trustee of the district hospital who is serving in that capacity on the effective date of the ordinance is terminated as of the effective date of the ordinance.

3. Except as otherwise provided in NRS 450.710, a board of county commissioners shall not enact an ordinance pursuant to subsection 2 unless it determines that:

(a) The county has fully funded its indigent care account created pursuant to NRS 428.010;

(b) The county has fulfilled its duty to reimburse the hospital for indigent care provided to qualified indigent patients; and

(c) During the previous calendar year:

(1) At least one of the hospital's accounts payable was more than 90 days in arrears;

(2) The hospital failed to fulfill its statutory financial obligations, including the payment of taxes, premiums for industrial insurance or contributions to the Public Employees' Retirement System;

(3) One or more of the conditions relating to financial emergencies set forth in subsection ~~H~~ 2 of NRS 354.685 existed at the hospital; or

(4) The hospital received notice from the Federal Government or the State of Nevada that the certification or license of the hospital was in imminent jeopardy of being revoked because the hospital had not carried out a previously established plan of action to correct previously noted deficiencies found by the regulatory body.

Sec. 18. The Committee on Local Government Finance shall, at its next regular meeting after the effective date of this act, elect from among its members a Chair and Vice Chair pursuant to NRS 354.105, as amended by section 1 of this act.

Sec. 18.3. If a court of competent jurisdiction finds that any provision of this act conflicts with and cannot be harmonized with any provisions of the Local Government Securities Law, as set forth in NRS 350.500 to 350.720, inclusive, the provisions of the Local Government Securities Law shall be deemed to control to the extent of the conflicts.

Sec. 18.7. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 19. NRS 354.686 and 354.701 are hereby repealed.

Sec. 20. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

354.686 Severe financial emergency: Request by local government involved in litigation or threatened litigation for order that Department of Taxation take over management of local government; issuance of order.

1. If the governing body of a local government determines by the affirmative vote of a majority of its members that, because the local government is involved in litigation or threatened litigation, the local government is or will be in a severe financial emergency, the governing body may submit a request to the Nevada Tax Commission for an order that the Department, as soon as practicable, take over the management of the local government pursuant to the provisions of NRS 354.655 to 354.725, inclusive.

2. If the Nevada Tax Commission receives a request pursuant to subsection 1, the Nevada Tax Commission shall order the Department to take over the management of the local government.

354.701 Severe financial emergency: Stay of action by creditor of local government for attachment, garnishment or execution until adoption of program for liquidation of debt. If the Department takes over the

management of a local government because the local government is involved in litigation or threatened litigation and if a creditor of the local government is allowed by law to commence or maintain an action in the nature of an attachment, garnishment or execution in the courts of this State against the local government or its assets, the action must be stayed until the following conditions have been satisfied:

1. The creditor must meet with the Department to formulate a program for the liquidation of the debt owed by the local government to that creditor; and

2. The Department must adopt a program for the liquidation of the debt owed by the local government to the creditor as described in subsection 1. The Department shall formulate the program not later than 60 days after meeting with the creditor pursuant to subsection 1. The formulation of the program is a final decision for the purposes of judicial review.

Assemblyman Ellison moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 60.

Bill read second time.

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

Amendment No. 514.

AN ACT relating to ethics in government; revising provisions relating to ethics in government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Under the Nevada Ethics in Government Law, the requirement to disclose a conflict of interest applies to public officers as well as public employees, but the requirements relating to abstention only apply to public officers. (NRS 281A.420) Section 2 of this bill extends to public employees the requirements relating to abstention from taking action on matters on which a public employee has a prescribed conflict of interest.~~

~~Under the Ethics Law,~~ the Commission on Ethics is required to determine whether it has jurisdiction over a request for an opinion. (NRS 281A.280; NAC 281A.360, 281A.405) The Ethics Law also imposes time limits on the Commission to carry out certain duties. ~~With respect to a request for an opinion from a public officer or employee regarding his or her own past, present or future conduct as a public officer or employee, the Commission is required to render an opinion within 45 days after receiving the request, unless the public officer or employee waives the time limit.~~ With respect to a request for an opinion regarding the conduct of a public officer or employee ~~from~~ **which is made by** a third party ~~for on the Commission's own motion,~~ **and is more commonly known as a third-party request,** the Executive Director of the Commission is required to complete an investigation ~~for~~ and make a recommendation regarding the **third-party** request within 70 days after

receipt of the request, unless the public officer or employee waives the time limit. (NRS 281A.440)

~~__To accommodate the time required for the Commission to determine whether it has jurisdiction concerning a **third-party** request, ~~for an opinion,~~ section 3 of this bill ~~moves the commencement of these time limits until the date on which~~ provides that within 45 days after receiving the request, the Commission shall determine whether it has jurisdiction concerning the request, unless the public officer or employee waives the time limit. If the Commission determines that it has jurisdiction concerning the request ~~instead of the date on which the request was received by the Commission.~~~~

~~The Ethics Law prohibits the Commission from initiating a request for an opinion based on an anonymous complaint. (NRS 281A.440) Section 3 removes this prohibition, thereby allowing the Commission to initiate a request for an opinion if it has sufficient information to do so based on an anonymous complaint.~~ , the Executive Director must complete the investigation and make a recommendation regarding the request within 70 days after the jurisdictional determination, unless the public officer or employee waives the time limit.

Under the Ethics Law, the investigative file relating to a request for an opinion, which includes any information obtained by the Commission during the course of an investigation related to the request, is confidential. (NRS 281A.440) Section 3 clarifies that the investigative file includes any information provided to or obtained by an investigatory panel consisting of Commission members or by the staff of the Commission.

The Ethics Law further provides that all information that is not included in the investigative file relating to a request is confidential for a limited time until an investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter or until the public officer or employee authorizes disclosure, whichever occurs first. (NRS 281A.440) Section 3 authorizes additional confidentiality which allows a person who makes a third-party request to ask for the person's name to be kept confidential under certain limited circumstances. In particular, section 3 states that the Commission: (1) shall keep the person's name confidential if the person is a public officer or employee who works for the same public body, agency or employer as the public officer or employee who is the subject of the request; and (2) may keep the person's name confidential if the person offers sufficient facts and circumstances showing a reasonable likelihood that disclosure of the person's name will subject the person or a member of the person's household to a bona fide threat of physical force or violence. However, if the Commission keeps the person's name confidential, the Commission may not render an opinion in the matter unless there is sufficient evidence without the person's testimony to consider the request. Additionally, if the Commission intends to present the person's testimony as evidence, the

Commission must disclose the person's name within a reasonable time before the Commission's hearing on the matter.

Under the Ethics Law, the Commission is required to consider various aggravating and mitigating factors when determining whether a violation of the Ethics Law is a willful violation and, if so, the amount of any civil penalty to be imposed for such a willful violation of the Ethics Law. (NRS 281A.170, 281A.475) ~~Section~~ **Sections 1 and 4** of this bill ~~makes consideration of these factors discretionary instead of mandatory by~~ **clarify that the factors listed in the Ethics Law which must be considered by the Commission are not exclusive or exhaustive, and the Commission may consider other factors in the disposition of the matter if they bear a reasonable relationship to the determination of the severity of the violation.**

The Ethics Law includes a “safe harbor” provision, whereby any act or failure to act by a current or former public officer or employee is deemed to not be a willful violation if the public officer or employee establishes by sufficient evidence that: (1) the public officer or employee relied in good faith upon the advice of the legal counsel retained by his or her public body, agency or employer; and (2) the act or failure to act by the public officer or employee was not contrary to a prior published opinion issued by the Commission. (NRS 281A.480) **Section 5** of this bill clarifies that to qualify for protection under the “safe harbor” provision, the advice of the legal counsel must have been: (1) ~~requested by and~~ provided to the public officer or employee before he or she acted or failed to act; and (2) based on a **reasonable legal determination by the legal counsel under the circumstances when the advice was given** that the act or failure to act would not be contrary to any prior published opinion issued by the Commission ~~which was publicly available on the Internet website of the Commission.~~

With certain exceptions, the Ethics Law imposes a 1-year “cooling off” period on former public officers and employees during which they are prohibited from soliciting or accepting employment from a business or industry over which they had regulatory authority in some capacity. However, the Ethics Law authorizes a current or former public officer or employee to request an opinion from the Commission to obtain relief from the strict application of the prohibition. The Ethics Law also authorizes a current public officer or employee to request the Commission to render an opinion providing guidance regarding his or her past, present or future conduct as a public officer or employee, which is known as a first-party request for an opinion. Under the Ethics Law, a request for an opinion regarding the application of the “cooling-off” prohibition or a first-party request for an opinion, as well as any 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, in part, the public officer or employee discloses the request for an opinion, opinion or related motion, evidence or record. (NRS 281A.440, 281A.550) **Sections 3 and 6** of this bill allow a public officer or employee who made such a request to disclose the request for the opinion, the opinion

and any motion, evidence or record related to the opinion to certain persons without waiving the confidentiality of the request for the opinion, opinion and any related motion, evidence or record.

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

Section 1. NRS 281A.170 is hereby amended to read as follows:

281A.170 "Willful violation" means a violation where ~~1-~~

~~1. The~~ **the** public officer or employee:

~~{(a)}~~ **1.** Acted intentionally and knowingly; or

~~{(b)}~~ **2.** Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter ~~1-~~; and

~~2. The~~ **1.**

↪ unless the Commission determines, after applying the factors set forth in NRS 281A.475, that the public officer's or employee's act or failure to act **has not resulted in a sanctionable violation of this chapter.**

Sec. 2. ~~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 interests of another person;~~

~~↪ without disclosing 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 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 **or employee** shall not vote **or otherwise act** 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 **or employee's** situation would be materially affected by:~~

~~— (a) The public officer's **or employee's** acceptance of a gift or loan;~~

~~— (b) The public officer's **or employee's** significant pecuniary interest; or~~

~~— (c) The public officer's **or employee's** commitment in a private capacity to the interests of 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 **or employee's** situation would not be materially affected by the public officer's **or employee's** acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person where the resulting benefit or detriment accruing to the public officer **[,] or employee**, or if the public officer **or employee** has a commitment in a private capacity to the interests of another person, accruing to the other person, is not greater than that accruing to any other member of 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 another person.~~

~~— (b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer **or employee** to perform the duties for which the public officer was elected or appointed **or the duties which the public employee was assigned** and to vote or otherwise act upon a matter, provided the public officer **or employee** has properly disclosed the public officer's **or employee's** acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person in the manner required by subsection 1. Because abstention [by a public officer] disrupts the normal course of representative government **and governmental operation** 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 **or employee's** situation would be materially affected by the public officer's **or employee's** acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of 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, "public officer" and "public employee" do not include a State Legislator. (Deleted by amendment.)~~

Sec. 3. 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 ~~determining that it has jurisdiction concerning~~ a request ~~received~~, 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 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. **Within 45 days after receiving a request for an opinion pursuant to paragraph (a) or (b) of subsection 2, the Commission shall determine whether it has jurisdiction concerning the request, unless the public officer or employee who is the subject of the request waives this time limit.** Upon ~~receipt of~~ a determination by the Commission that it has jurisdiction concerning a request for an opinion ~~by the Commission~~ pursuant to paragraph (a) or (b) of subsection 2, or upon the motion of the Commission initiating a request for an opinion pursuant to paragraph (c) of subsection 2, as applicable, 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~~ determination by the Commission that it has jurisdiction concerning the request or after the motion of the Commission ~~for~~ initiating the request, as applicable, unless the public officer or employee waives this time limit.

5. Within 15 days after the Executive Director has provided the 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.

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 ~~to~~ **in any manner except to:**

(1) The public body, agency or employer of the public officer or employee; or

(2) A person to whom the Commission authorizes the current or former public officer or employee to make such a disclosure; 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 ~~subsection 9,~~ **subsections 9 and 10,** 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 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:

(a) The investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter 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 authorizes the Commission in writing to make its information, communications, records, documents or other material which are related to the request publicly available, ➡ whichever occurs first.

9. Except as otherwise provided in this subsection, if a person who submits a request for an opinion pursuant to paragraph (b) of subsection 2 asks for the person's name to be kept confidential, the Commission:

(a) Shall keep the person's name confidential if the person is a public officer or employee who works for the same public body, agency or employer as the public officer or employee who is the subject of the request.

(b) May keep the person's name confidential if the person offers sufficient facts and circumstances showing a reasonable likelihood that disclosure of the person's name will subject the person or a member of the person's household to a bona fide threat of physical force or violence.

➡ If the Commission keeps the person's name confidential, the Commission shall not render an opinion in the matter unless there is sufficient evidence without the person's testimony to consider the propriety of the conduct of the public officer or employee who is the subject of the request. If the Commission intends to present the person's testimony for consideration as evidence in rendering an opinion in the matter, the Commission shall disclose the person's name within a reasonable time before the Commission's hearing on the matter.

10. Except as otherwise provided in this ~~{section,}~~ subsection, the investigative file ~~{of the Commission}~~ related to a request for an opinion regarding a public officer or employee, as described in subsection ~~{46,}~~ 17, is confidential. At any time after being served with written notice of the determination of the investigatory panel regarding the existence of just and sufficient cause for the Commission to render an opinion in the matter, 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,}~~ 11. 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.]~~ **12.** 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.]~~ **13.** If a person who requests an opinion pursuant to subsection 1 or 2 does not :

~~(a) Submit ~~submit~~ all necessary information to the Commission ~~if~~ ; and~~

~~(b) Declare by oath or affirmation that the person will testify truthfully.~~

~~the Commission may decline to render an opinion.~~

~~[13.]~~ **14.** For good cause shown, the Commission may take testimony from a person by telephone or video conference.

~~[14.]~~ **15.** 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.]~~ **16.** 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.]~~ **17.** 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 **provided to or** obtained by the Commission , **its staff or an investigatory panel** 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, **including, without limitation, a transcript**, regardless of whether such information, records, documents or other material are obtained by a subpoena.

Sec. 4. NRS 281A.475 is hereby amended to read as follows:

281A.475 1. In determining whether a violation of this chapter is a willful violation and, if so, the amount of any civil penalty to be imposed on a public officer or employee or former public officer or employee pursuant to NRS 281A.480, the Commission ~~shall ~~may~~~~ consider ~~it~~ , **without limitation:**

(a) The seriousness of the violation, including, without limitation, the nature, circumstances, extent and gravity of the violation;

(b) The number and history of previous warnings issued to or violations of the provisions of this chapter by the public officer or employee;

(c) The cost to the Commission to conduct the investigation and any hearing relating to the violation;

(d) 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 in resolving the complaint;

(e) Any restitution or reimbursement paid to parties affected by the violation;

(f) The extent of any financial gain resulting from the violation; and

(g) Any other matter justice may require.

2. **The factors set forth in this section are not exclusive or exhaustive, and the Commission may consider other factors in the disposition of the matter if they bear a reasonable relationship to the Commission's determination of the severity of the violation.**

3. In applying the factors set forth in this section, the Commission shall treat comparable situations in a comparable manner and shall ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation.

Sec. 5. NRS 281A.480 is hereby amended to read as follows:

281A.480 1. In addition to any other penalties provided by law ~~for~~ and in accordance with the provisions of NRS 281A.475, 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. Notwithstanding any other provision of this chapter, any act or failure to act by a public officer or employee or former public officer or employee relating to this chapter is not a willful violation of this chapter if the public officer or employee establishes by sufficient evidence that :

(a) The ~~(the)~~ public officer or employee relied in good faith upon the advice of the legal counsel retained by his or her public body, agency or employer ;
~~and that the advice was:~~

~~— (a) Requested by and provided to the public officer or employee before the public officer or employee acted or failed to act; and~~

(b) The advice of the legal counsel was:

(1) Provided to the public officer or employee before the public officer or employee acted or failed to act; and

(2) Based on a reasonable legal determination by the legal counsel under the circumstances when the advice was given that the act or failure to act by the public officer or employee ~~was~~ would not be contrary to ~~it~~ any prior published opinion issued by the Commission ~~it~~ which was publicly available on the Internet website of 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. 6. NRS 281A.550 is hereby amended to read as follows:

281A.550 1. A former member of the Public Utilities Commission of Nevada shall not:

(a) Be employed by a public utility or parent organization or subsidiary of a public utility; or

(b) Appear before the Public Utilities Commission of Nevada to testify on behalf of a public utility or parent organization or subsidiary of a public utility, ➤ for 1 year after the termination of the member's service on the Public Utilities Commission of Nevada.

2. A former member of the State Gaming Control Board or the Nevada Gaming Commission shall not:

(a) Appear before the State Gaming Control Board or the Nevada Gaming Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS; or

(b) Be employed by such a person, ➤ for 1 year after the termination of the member's service on the State Gaming Control Board or the Nevada Gaming Commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, and except as otherwise provided in subsections 4 and 6, a former public officer or employee of a board, commission, department, division or other agency of the Executive Department of State Government, except a clerical employee, shall

not solicit or accept employment from a business or industry whose activities are governed by regulations adopted by the board, commission, department, division or other agency for 1 year after the termination of the former public officer's or employee's service or period of employment if:

(a) The former public officer's or employee's principal duties included the formulation of policy contained in the regulations governing the business or industry;

(b) During the immediately preceding year, the former public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ the former public officer or employee; or

(c) As a result of the former public officer's or employee's governmental service or employment, the former public officer or employee possesses knowledge of the trade secrets of a direct business competitor.

4. The provisions of subsection 3 do not apply to a former public officer who was a member of a board, commission or similar body of the State if:

(a) The former public officer is engaged in the profession, occupation or business regulated by the board, commission or similar body;

(b) The former public officer holds a license issued by the board, commission or similar body; and

(c) Holding a license issued by the board, commission or similar body is a requirement for membership on the board, commission or similar body.

5. Except as otherwise provided in subsection 6, a former public officer or employee of the State or a political subdivision, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or political subdivision, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:

(a) The amount of the contract exceeded \$25,000;

(b) The contract was awarded within the 12-month period immediately preceding the termination of the officer's or employee's service or period of employment; and

(c) The position held by the former public officer or employee at the time the contract was awarded allowed the former public officer or employee to affect or influence the awarding of the contract.

6. A current or former public officer or employee may request that the Commission apply the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and determine whether relief from the strict application of those provisions is proper. If the Commission determines that relief from the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:

(a) The best interests of the public;

(b) The continued ethical integrity of the State Government or political subdivision, as applicable; and

(c) The provisions of this chapter,

↳ it may issue an opinion to that effect and grant such relief. The opinion of the Commission in such a case is final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the current or former public officer or employee.

7. Each request for an opinion that a current or former public officer or employee submits to the Commission pursuant to subsection 6, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the current or former public officer or employee who requested the opinion:

(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;

(b) Discloses the request for the opinion, the contents of the opinion or any motion, evidence or record of a hearing related thereto ~~to~~ **in any manner except to:**

(1) The public body, agency or employer of the public officer or employee or a prospective employer of the public officer or employee; or

(2) Any person to whom the Commission authorizes the current or former public officer or employee to make such a disclosure; 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.

Sec. 7. This act becomes effective upon passage and approval.

Assemblyman Stewart moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 68.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 9.

AN ACT relating to the Commission on Judicial Discipline; ~~providing that no court in this State other than the Supreme Court may exercise jurisdiction over a~~ **requiring a determination or finding by the Commission to be recorded in the minutes of the proceedings of the Commission in certain circumstances; revising the definition of the term “judge” for purposes of the jurisdiction of the Commission; requiring any** complaint or action filed in connection with any proceeding of the Commission ~~to authorize the Commission to collect attorney’s fees and costs from a person who files such a complaint or action in a court lacking jurisdiction; revising provisions governing the examination of complaints received by the Commission;~~ **to be filed in the Supreme Court; revising provisions concerning the appointment of justices of the peace and municipal judges to sit on the Commission in certain circumstances; requiring appointing authorities to appoint one or more alternate members to serve on the Commission;** revising the information the Commission is required to disclose if a witness before the Commission is prosecuted for perjury; revising provisions relating to the confidentiality of deliberative sessions and proceedings of the Commission; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, the Commission on Judicial Discipline has exclusive jurisdiction over the public censure, removal, involuntary retirement and other discipline of judges. (NRS 1.440) **Section 2.5 of this bill revises the definition of the term “judge” to include a person who is a former justice, judge, justice of the peace or other officer of the Judicial Branch who presides over judicial proceedings if the conduct at issue occurred while the person was serving in any such position. Thus, under section 2.5, the Commission has jurisdiction over a former justice, judge, justice of the peace or other judicial officer for conduct that occurred while the person was serving in any such position. Section 3 of this bill: (1) ~~provides~~ requires that ~~no court in this State other than the Supreme Court may exercise jurisdiction over a~~ any complaint or action filed in connection with any proceeding of the Commission ~~to be filed in the Supreme Court;~~ (2) ~~authorizes the Commission to require a person who files such a complaint or action in a court that lacks jurisdiction to pay the attorney’s fees and costs incurred by the Commission in connection with the complaint or action; and~~ (3) requires that any such attorney’s fees and costs collected by the Commission be deposited in the State General Fund.**

~~Existing law requires the Commission to examine each complaint it receives to determine whether the complaint alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated. (NRS 1.4657) Section 4 of this bill requires the Commission or its staff to examine each complaint the Commission receives and, based on that examination, the Commission shall then make such a determination.~~ **provides that any such complaint or action filed in a court**

other than the Supreme Court will be presumed to be frivolous and intended solely for the purposes of delay; and (3) requires the Supreme Court to appoint two justices of the peace and two municipal judges to sit on the Commission for formal, public proceedings against a justice of the peace or a municipal judge, respectively. Section 3.5 of this bill requires each appointing authority to appoint, for each position for which the authority makes an appointment to the Commission, one or more alternate members.

Existing law requires that all proceedings of the Commission remain confidential until the Commission makes a determination that a reasonable probability of grounds for disciplinary action against a judge exists and the special counsel files a formal statement of charges. (NRS 1.4683) **Section 5** of this bill instead requires that the existence of a proceeding of the Commission remain confidential during such time. **Section 5** also revises the information that the Commission is required to disclose if a witness is prosecuted for perjury committed during the course of a proceeding before the Commission.

Existing law also requires that all deliberative sessions of the Commission remain private. (NRS 1.4687) **Sections 6 and 7** of this bill require that any minutes of such sessions remain confidential.

Section 1 of this bill provides that **, unless otherwise expressly provided by law, a determination or finding by the Commission is ~~(not)~~ required to be ~~[in writing unless otherwise expressly provided by law.]~~ recorded in the minutes of the proceedings of the Commission if the determination or finding is made before: (1) the filing of a formal statement of charges against a judge; or (2) the Commission decides to suspend a judge.**

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

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

Except as otherwise expressly provided in this section and NRS 1.425 to 1.4695, inclusive, or any other applicable provision of law, a determination or finding by the Commission ~~[is not required to be in writing.]~~ must be recorded in the minutes of the proceedings of the Commission if the determination or finding is made before:

1. The filing of a formal statement of charges against a judge pursuant to NRS 1.467; or

2. The Commission suspends a judge pursuant to NRS 1.4675.

Sec. 2. NRS 1.425 is hereby amended to read as follows:

1.425 As used in NRS 1.425 to 1.4695, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 1.4253 to 1.4296, inclusive, have the meanings ascribed to them in those sections.

Sec. 2.5. NRS 1.428 is hereby amended to read as follows:

1.428 “Judge” means:

1. A justice of the Supreme Court;
2. A judge of the Court of Appeals;
3. A judge of the district court;
4. A judge of the municipal court;
5. A justice of the peace; ~~and~~
6. Any other officer of the Judicial Branch of this State, whether or not the officer is an attorney, who presides over judicial proceedings, including, but not limited to, a magistrate, court commissioner, special master or referee ~~and~~;
and

7. Any person who formerly served in any of the positions described in subsections 1 to 6, inclusive, if the conduct at issue for purposes of NRS 1.425 to 1.4695, inclusive, occurred while the person was serving in such a position.

Sec. 3. NRS 1.440 is hereby amended to read as follows:

1.440 1. The Commission has exclusive jurisdiction over the public censure, removal, involuntary retirement and other discipline of judges which is coextensive with its jurisdiction over justices of the Supreme Court and must be exercised in the same manner and under the same rules.

2. ~~No court in this State other than the Supreme Court may exercise jurisdiction over a~~ **Any complaint or action, including, without limitation, an interlocutory action or appeal, filed in connection with any proceeding of the Commission ~~and~~ must be filed in the Supreme Court. Any such complaint or action filed in a court other than the Supreme Court shall be ~~deemed~~ presumed to be frivolous and intended solely for the purposes of delay. The Commission may require a person who files such a complaint or action in a court other than the Supreme Court to pay the attorney's fees and costs incurred by the Commission in connection with the complaint or action. Any such attorney's fees and costs collected by the Commission must be deposited in the State General Fund.**

3. The Supreme Court shall appoint two justices of the peace ~~or~~ **and** two municipal judges to sit on the Commission for formal, public proceedings against a justice of the peace or a municipal judge, respectively. Justices of the peace and municipal judges so appointed must be designated by an order of the Supreme Court to sit for such proceedings in place of and to serve for the same terms as the regular members of the Commission appointed by the Supreme Court.

Sec. 3.5. **NRS 1.445 is hereby amended to read as follows:**

1.445 1. Each appointing authority shall appoint for each position for which the authority makes an appointment to the Commission ~~an~~ **one or more** alternate ~~member~~ **members**. The Governor shall not appoint more than two alternate members of the same political party. An alternate member must not be a member of the Commission on Judicial Selection.

2. An alternate member shall serve:

- (a) When the appointed member is disqualified or unable to serve; or
- (b) When a vacancy exists.

Sec. 4. ~~[NRS 1.4657 is hereby amended to read as follows:~~

~~1.4657 1. The Commission or its staff shall, in accordance with [its] the procedural rules [.] of the Commission, examine each complaint that [it] the Commission receives [to] and, based on that examination, the Commission shall determine whether the complaint alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated.~~

~~2. If the Commission determines that a complaint does not contain such allegations, the Commission shall dismiss the complaint with or without a letter of caution. A letter of caution is not a form of discipline. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the letter of caution is not relevant to the misconduct alleged in the subsequent complaint.~~

~~3. If the Commission determines that a complaint does contain such allegations, the Commission shall authorize further investigation.] (Deleted by amendment.)~~

Sec. 5. NRS 1.4683 is hereby amended to read as follows:

1.4683 1. Except as otherwise provided in this section and NRS 1.4675 and 239.0115, ~~[all proceedings]~~ **the existence of a proceeding** of the Commission must remain confidential until the Commission makes a determination pursuant to NRS 1.467 and the special counsel files a formal statement of charges.

2. Except as otherwise provided in this section, before the filing of a formal statement of charges, a present or former member of the Commission, a present or former member of the staff of the Commission or a present or former independent contractor retained by the Commission shall not disclose information contained in a complaint or any other information relating to the allegations of misconduct or incapacity. Such persons:

(a) May disclose such information to persons directly involved in the matter to the extent necessary for a proper investigation and disposition of the complaint; and

(b) Shall conduct themselves in a manner that maintains the confidentiality of the disciplinary proceeding.

3. Nothing in this section prohibits a person who files a complaint with the Commission pursuant to NRS 1.4655, a judge against whom such a complaint is made or a witness from disclosing at any time the existence or substance of a complaint, investigation or proceeding. The immunity provided by NRS 1.465 does not apply to such a disclosure.

4. The confidentiality required pursuant to subsection 1 also applies to all information and materials, written or oral, received or developed by the Commission, its staff or any independent contractors retained by the Commission in the course of its work and relating to the alleged misconduct or incapacity of a judge.

5. The Commission shall disclose ~~it~~:

~~—(a) The report of a proceeding before the Commission; and~~

~~—(b) All *all* testimony given and all materials filed in connection with ~~[such]~~~~
a proceeding ~~in~~

~~→~~ ***before the Commission*** if a witness is prosecuted for perjury committed during the course of that proceeding.

6. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if the judge, a third person or the person who filed a complaint with the Commission pursuant to NRS 1.4655 has made the name of the judge against whom such a complaint is made public, the Commission may, at the request of the judge or on its own accord, issue an explanatory statement to maintain confidence in the judicial system and the Commission. In such a statement, the Commission may:

- (a) Confirm or deny that a complaint has been filed;
- (b) Confirm or deny that the Commission is conducting an investigation;
- (c) Confirm that the Commission has dismissed a complaint with or without a letter of caution; and

- (d) Confirm that the Commission has entered into a deferred discipline agreement with the judge.

7. In addition to the information authorized pursuant to subsection 6, a statement issued by the Commission pursuant to subsection 6 may correct any public misinformation concerning the disciplinary proceeding, clarify the procedures of the Commission relating to the disciplinary proceeding and explain that the judge has a right to a fair investigation and, if applicable, a fair hearing without prejudgment. The Commission shall submit such a statement to the judge concerned for comments before the Commission releases the statement. The Commission is not required to incorporate any comments made by the judge in the statement and may release the statement as originally drafted.

8. The Commission may, without disclosing the name of or any details that may identify the judge involved, disclose the existence of a proceeding before it to the State Board of Examiners and the Interim Finance Committee to obtain additional money for its operation from the Contingency Account established pursuant to NRS 353.266.

9. No record of any medical examination, psychiatric evaluation or other comparable professional record made for use in an informal resolution pursuant to subsection 4 of NRS 1.4665 may be made public at any time without the consent of the judge concerned.

10. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, the Commission may release confidential information:

- (a) To the appropriate law enforcement or prosecuting authorities if the Commission determines that it has reliable information which reveals possible criminal conduct by a judge ~~[former judge]~~ or any other person;

- (b) Upon request to the Board of Governors of the State Bar of Nevada or other appropriate disciplinary authorities of the State Bar of Nevada if the

Commission determines that it has reliable information that reveals a possible violation of the *Nevada* Rules of Professional Conduct by a judge ~~or former judge~~ or any other attorney; or

(c) Pursuant to an order issued by a court of record of competent jurisdiction in this State or a federal court of record of competent jurisdiction.

11. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if a judge ~~or former judge~~ signs a waiver, the Commission may release confidential information concerning any complaints filed with the Commission pursuant to NRS 1.4655 that are pending or are closed and did not result in a dismissal to:

(a) An agency authorized to investigate the qualifications of persons for admission to practice law;

(b) An appointing or nominating authority or a state or federal agency lawfully conducting investigations relating to the selection or appointment of judges; or

(c) An agency conducting investigations relating to employment with a governmental agency or other employment.

12. If the Commission discloses information concerning a pending complaint to an agency or authority pursuant to subsection 11, the Commission shall subsequently disclose the disposition of the complaint to the agency or authority. The Commission shall send a copy of all information disclosed pursuant to subsection 11 to the judge ~~or former judge~~ concerned at the same time the Commission sends the information to the agency or authority.

Sec. 6. NRS 1.4687 is hereby amended to read as follows:

1.4687 1. Except as otherwise provided in subsection 2:

(a) Upon the filing of a formal statement of charges with the Commission by the special counsel, the statement and other documents later formally filed with the Commission must be made accessible to the public, and hearings must be open.

(b) If a formal statement of charges has not been filed with the Commission and the Commission holds a hearing to suspend a judge pursuant to NRS 1.4675, any transcript of the hearing and any documents offered as evidence at the hearing must be made accessible to the public.

2. Regardless of whether any formal statement of charges has been filed with the Commission, medical records and any other documents or exhibits offered as evidence which are privileged pursuant to chapter 49 of NRS must not be made accessible to the public.

3. The Commission's deliberative sessions must remain private ~~and~~ **and any minutes of such sessions must remain confidential.**

4. The filing of a formal statement of charges does not justify the Commission, its counsel, staff or independent contractors retained by the Commission in making public any correspondence, notes, work papers, interview reports or other evidentiary matter, except at the formal hearing or with explicit consent of the judge named in the complaint.

Sec. 7. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, **1.4687**, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180,

645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 8. This act becomes effective on July 1, 2015.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 85.

Bill read second time.

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

Amendment No. 78.

AN ACT relating to professions; transferring certain duties of the Secretary-Treasurer of the Board of Examiners for Alcohol, Drug and Gambling Counselors to the Executive Director of the Board; authorizing the Executive Director to delegate his or her duties; revising provisions governing alcohol, drug and gambling counselors and interns; **authorizing the certification by the Board of peer support specialists;** repealing the prospective transfer of the authority and duties relating to the certification of detoxification technicians to the Board; **establishing fees;** providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Board of Examiners for Alcohol, Drug and Gambling Counselors and authorizes the Board to license or certify persons engaged in the practice or clinical practice of counseling alcohol and drug abusers and problem gamblers. (Chapter 641C of NRS)

Sections 1.3-1.5 of this bill provide for the certification of peer support specialists by the Board. Section 1.45 establishes the requirements for obtaining a certificate as a peer support specialist. Section 1.5 authorizes a certified peer support specialist to engage in the practice of providing peer support specialist services only under the supervision of certain licensed professionals. Section 1.45 requires an applicant for the issuance or renewal of a certificate as a peer support specialist to pay to the Board a fee which, pursuant to section 12.7 of this bill, must not exceed \$150 for the initial application or \$300 for the renewal of a certificate.

Section 2 of this bill transfers certain duties of the Secretary-Treasurer of the Board to the Executive Director of the Board. **Section 2** also authorizes the Executive Director to delegate certain duties to a designee.

Sections 3-10 of this bill make various changes regarding the requirements for obtaining and renewing a license or certificate as an alcohol, drug or gambling counselor or intern. **Sections 8, 10 and 12** of this bill reduce the duration of certificates for certain counseling interns from 1 year to 6 months.

Section 13 of this bill authorizes the Board, when determining whether to issue, renew, restore, suspend, revoke or reinstate a license or certificate or imposing disciplinary action upon an existing licensee or certificate holder, to consider any original criminal charges filed against the applicant, licensee or certificate holder, even if that person was convicted of a lesser crime.

Section 14 of this bill eliminates the 30-day grace period authorizing an otherwise qualified person to engage in the practice of counseling alcohol and drug abusers or problem gamblers without a license or certificate while his or her application is being reviewed. **Section 15** of this bill prohibits a person who is not licensed or certified by the Board from engaging in the practice or

clinical practice of counseling alcohol and drug abusers and problem gamblers ~~or~~ **or the practice of providing peer support specialist services.**

Section 24 of this bill repeals the authority of the Board to provide for the certification of detoxification technicians. (NRS 641C.500) **Sections 16-20** of this bill make conforming changes to account for the repeal of NRS 641C.500 regarding the certification of detoxification technicians by the Board. The effect of **sections 16-20 and 24** is to leave the authority to certify detoxification technicians with the Division of Public and Behavioral Health of the Department of Health and Human Services pursuant to chapter 458 of NRS.

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

Section 1. NRS 641.029 is hereby amended to read as follows:

641.029 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
 2. A person who is licensed to practice dentistry in this State;
 3. A person who is licensed as a marriage and family therapist or marriage and family therapist intern pursuant to chapter 641A of NRS;
 4. A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;
 5. A person who is licensed to engage in social work pursuant to chapter 641B of NRS;
 6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;
 7. A person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor or certified as an alcohol and drug abuse counselor intern, a clinical alcohol and drug abuse counselor intern, a problem gambling counselor ~~, or~~ **or a certified peer support specialist,** pursuant to chapter 641C of NRS; or
 8. Any member of the clergy,
- ↪ if such a person does not commit an act described in NRS 641.440 or represent himself or herself as a psychologist.

Sec. 1.1. NRS 641B.040 is hereby amended to read as follows:

641B.040 The provisions of this chapter do not apply to:

1. A physician who is licensed to practice in this State;
2. A nurse who is licensed to practice in this State;
3. A person who is licensed as a psychologist pursuant to chapter 641 of NRS;
4. A person who is licensed as a marriage and family therapist or marriage and family therapist intern pursuant to chapter 641A of NRS;
5. A person who is licensed as a clinical professional counselor or clinical professional counselor intern pursuant to chapter 641A of NRS;

6. A person who is licensed as an occupational therapist or occupational therapy assistant pursuant to NRS 640A.010 to 640A.230, inclusive;

7. A person who is licensed as a clinical alcohol and drug abuse counselor, licensed or certified as an alcohol and drug abuse counselor, or certified as a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor intern, a problem gambling counselor, ~~or~~ or a certified peer support specialist, pursuant to chapter 641C of NRS;

8. Any member of the clergy;

9. A county welfare director;

10. Any person who may engage in social work or clinical social work in his or her regular governmental employment but does not hold himself or herself out to the public as a social worker; or

11. A student of social work and any other person preparing for the profession of social work under the supervision of a qualified social worker in a training institution or facility recognized by the Board, unless the student or other person has been issued a provisional license pursuant to paragraph (b) of subsection 1 of NRS 641B.275. Such a student must be designated by the title "student of social work" or "trainee in social work," or any other title which clearly indicates the student's training status.

Sec. 1.2. Chapter 641C of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 to 1.5, inclusive, of this act.

Sec. 1.3. "Certified peer support specialist" means a person who is certified as a peer support specialist pursuant to the provisions of this chapter.

Sec. 1.4. 1. "Practice of providing peer support specialist services" means the practice of giving nonprofessional, nonclinical assistance, including, without limitation, mentoring, coaching, educating or serving as a role model, with the intent of achieving long-term recovery from severe psychiatric, traumatic or addiction-related stress by sharing appropriate portions of the person's own recovery from severe psychiatric, traumatic or addiction-related stress.

2. The term does not include:

(a) The diagnosis or treatment of a substance abuse, mental health, psychiatric or psychotic disorder; or

(b) The use of a psychological or psychometric assessment test to determine intelligence, personality, aptitude or interests.

Sec. 1.45. The Board shall issue a certificate as a peer support specialist to a person who:

1. Is not less than 21 years of age;

2. Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

3. Has:

(a) A high school diploma; or

(b) A general equivalency diploma or an equivalent document;

4. Submits evidence satisfactory to the Board that the person has completed a training program approved by the Board and consisting of at least 46 hours of training, including, without limitation:

(a) Ten hours of training in each of the following domains, as they relate to the practice of providing peer support specialist services:

(1) Advocacy;

(2) Mentoring and education; and

(3) Recovery and wellness support; and

(b) Sixteen hours of training in the domain of confidentiality and ethical responsibility, as it relates to the practice of providing peer support specialist services;

5. Submits evidence satisfactory to the Board that the person has completed at least 25 hours of work in each of the domains described in subsection 4, as they relate to the practice of providing peer support specialist services, under the supervision of a person who normally provides supervision of such work for the entity or organization for which the work is completed;

6. Submits, on a form prescribed by the Board, evidence satisfactory to the Board that the person has completed at least 500 hours of paid or volunteer work in each of the domains described in subsection 4, as they relate to the practice of providing peer support specialist services. The form must be signed by a person who normally provides supervision or management for the entity or organization for which the work is completed, attesting that the applicant has completed the paid or volunteer work required by this subsection;

7. If the person is in recovery from a mental health or substance abuse disorder, provides to the Board a statement attesting that the person remains in active recovery and that the disorder is stable or in sustained remission;

8. Has not been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, a crime of violence or a sexual offense as that term is defined in NRS 179.245;

9. If the person has been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, a crime other than a crime described in subsection 8, has been released from parole, probation or custody for at least 12 months before applying for certification;

10. Provides evidence satisfactory to the Board that the person has experienced the process of recovering from severe psychiatric, traumatic or addiction-related stress and as a result is qualified to engage in the practice of providing peer support specialist services;

11. Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;

12. Pays the fees required pursuant to NRS 641C.470; and

13. Submits all information required to complete an application for a certificate.

Sec. 1.5. 1. A certificate as a peer support specialist is valid for 2 years and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

2. A certified peer support specialist may engage in the practice of providing peer support specialist services only under the supervision of a licensed clinical alcohol and drug abuse counselor, a licensed or certified alcohol and drug abuse counselor, a psychologist licensed pursuant to chapter 641 of NRS, a clinical professional counselor licensed pursuant to chapter 641A of NRS, a marriage and family therapist licensed pursuant to chapter 641A of NRS or a social worker licensed pursuant to chapter 641B of NRS.

Sec. 1.6. NRS 641C.010 is hereby amended to read as follows:

641C.010 The practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers ~~and~~ the practice of counseling problem gamblers **and the practice of providing peer support specialist services** are hereby declared to be learned professions affecting public health, safety and welfare and are subject to regulation to protect the public from the practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers ~~and~~ the practice of counseling problem gamblers **and the practice of providing peer support specialist services** by unqualified persons and from unprofessional conduct by persons who are licensed or certified to engage in the practice of counseling alcohol and drug abusers, licensed to engage in the clinical practice of counseling alcohol and drug abusers ~~or~~ certified to engage in the practice of counseling problem gamblers ~~or~~ **or certified to engage in the practice of providing peer support specialist services.**

Sec. 1.7. NRS 641C.020 is hereby amended to read as follows:

641C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 641C.030 to 641C.110, inclusive, **and sections 1.3 and 1.4 of this act** have the meanings ascribed to them in those sections.

Sec. 1.8. NRS 641C.040 is hereby amended to read as follows:

641C.040 "Certificate" means a certificate issued to a person who is certified as an alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor intern, a problem gambling counselor ~~or~~ a problem gambling counselor intern ~~or~~ **or a peer support specialist.**

Sec. 1.9. NRS 641C.150 is hereby amended to read as follows:

641C.150 1. The Board of Examiners for Alcohol, Drug and Gambling Counselors, consisting of seven members appointed by the Governor, is hereby created.

2. The Board must consist of:

(a) Three members who are licensed as clinical alcohol and drug abuse counselors or alcohol and drug abuse counselors pursuant to the provisions of this chapter.

(b) One member who is certified as an alcohol and drug abuse counselor pursuant to the provisions of this chapter.

(c) Two members who are licensed pursuant to chapter 630, 632, 641, 641A or 641B of NRS and certified as problem gambling counselors pursuant to the provisions of this chapter.

(d) One member who is a representative of the general public. This member must not be:

(1) A licensed clinical alcohol and drug abuse counselor or a licensed or certified alcohol and drug abuse counselor, ~~or~~ a certified problem gambling counselor ~~or~~ or a certified peer support specialist; or

(2) The spouse or the parent or child, by blood, marriage or adoption, of a licensed clinical alcohol and drug abuse counselor or a licensed or certified alcohol and drug abuse counselor, ~~or~~ a certified problem gambling counselor ~~or~~ or a certified peer support specialist.

3. A person may not be appointed to the Board unless he or she is:

(a) A citizen of the United States or is lawfully entitled to remain and work in the United States; and

(b) A resident of this State.

4. No member of the Board may be held liable in a civil action for any act that he or she performs in good faith in the execution of his or her duties pursuant to the provisions of this chapter.

~~Section 1.1~~ **Sec. 1.95.** NRS 641C.200 is hereby amended to read as follows:

641C.200 1. The Board shall adopt such regulations as are necessary to carry out the provisions of this chapter, including, without limitation, regulations that prescribe:

(a) The ethical standards for licensed and certified counselors, ~~and~~ certified interns ~~and~~ and certified peer support specialists; and

(b) The requirements for continuing education for the renewal, restoration or reinstatement of a license or certificate.

2. The Board may adopt regulations that prescribe:

(a) The contents of a written **and oral** examination concerning the practice of counseling problem gamblers;

(b) The grounds for initiating disciplinary action against a certified problem gambling counselor or certified problem gambling counselor intern; and

(c) Disciplinary procedures for certified problem gambling counselors and certified problem gambling counselor interns, including the suspension, revocation and reinstatement of a certificate as a problem gambling counselor or problem gambling counselor intern.

3. Any regulations adopted by the Board pursuant to this section must be consistent with the provisions of chapter 622A of NRS.

Sec. 2. NRS 641C.210 is hereby amended to read as follows:

641C.210 The ~~Secretary-Treasurer~~ **Executive Director** of the Board **or his or her designee** shall prepare and maintain:

1. A separate list of the names and addresses of:

- (a) The applicants for a license;
- (b) The applicants for a certificate;
- (c) The licensed counselors;
- (d) The certified counselors; ~~and~~
- (e) The certified interns; ~~and~~ **and**

(f) The certified peer support specialists.

- 2. A record of each examination conducted by the Board.
- 3. An inventory of:
 - (a) The property of the Board; and
 - (b) The property of this State that is in the possession of the Board.

Sec. 3. NRS 641C.290 is hereby amended to read as follows:

641C.290 1. Each applicant for a license as a clinical alcohol and drug abuse counselor must pass a written and oral examination concerning his or her knowledge of the clinical practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

2. Each applicant for a license or certificate as an alcohol and drug abuse counselor must pass a written and oral examination concerning his or her knowledge of the practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

3. Each applicant for a certificate as a problem gambling counselor must pass a written **and oral** examination concerning his or her knowledge of the practice of counseling problem gamblers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

4. **Each applicant for a certificate as a peer support specialist must pass a written and oral examination concerning his or her knowledge of the practice of providing peer support specialist services, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.**

5. The Board shall:

- (a) Examine applicants at least two times each year.
- (b) Establish the time and place for the examinations.
- (c) Provide such books and forms as may be necessary to conduct the examinations.
- (d) Except as otherwise provided in NRS 622.090, establish, by regulation, the requirements for passing the examination.

~~5.~~ **6.** The Board may employ other persons to conduct the examinations.

Sec. 4. NRS 641C.300 is hereby amended to read as follows:

641C.300 The Board ~~shall~~ **may** issue a license or certificate without examination to a person who holds a license or certificate as a clinical alcohol and drug abuse counselor, ~~for~~ an alcohol and drug abuse counselor **or a peer support specialist** in another state, a territory or possession of the United States or the District of Columbia if the requirements of that jurisdiction at the time

the license or certificate was issued are deemed by the Board to be substantially equivalent to the requirements set forth in the provisions of this chapter.

Sec. 5. NRS 641C.310 is hereby amended to read as follows:

641C.310 1. The Board may hold hearings and conduct investigations concerning any matter related to an application for a license or certificate. In the hearings and investigations, the Board may require the presentation of evidence.

2. The Board may refuse to issue a license or certificate to , ***or renew the license or certificate of,*** an applicant if the Board determines that the applicant:

(a) Is not of good moral character as it relates to the practice of counseling alcohol and drug abusers ~~for~~ the clinical practice of counseling alcohol and drug abusers ~~for~~ ***or the practice of providing peer support specialist services;***

(b) Has submitted a false credential to the Board;

(c) Has been disciplined in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers ~~for~~ the clinical practice of counseling alcohol and drug abusers ~~for~~ ***or the practice of providing peer support specialist services;***

(d) Has committed an act in another state, a possession or territory of the United States or the District of Columbia in connection with the practice of counseling alcohol and drug abusers ~~for~~ the clinical practice of counseling alcohol and drug abusers ***or the practice of providing peer support specialist services*** that would be a violation of the provisions of this chapter if the act were committed in this State; or

(e) Has failed to comply with any of the requirements for a license or certificate.

Sec. 6. NRS 641C.320 is hereby amended to read as follows:

641C.320 1. The Board may issue:

(a) A provisional license as a clinical alcohol and drug abuse counselor to a person who has applied to the Board to take the examination for a license as a clinical alcohol and drug abuse counselor and is otherwise eligible for that license pursuant to NRS 641C.330; or

(b) A provisional license or certificate as an alcohol and drug abuse counselor to a person who has applied to the Board to take the examination for a license or certificate as an alcohol and drug abuse counselor and is otherwise eligible for that license or certificate pursuant to NRS 641C.350 or 641C.390.

2. A provisional license or certificate is valid for not more than ~~1 year~~ **6 months** and may not be renewed.

Sec. 7. NRS 641C.331 is hereby amended to read as follows:

641C.331 1. A license as a clinical alcohol and drug abuse counselor is valid for ~~1 year~~ **2 years** and may be renewed.

2. A licensed clinical alcohol and drug abuse counselor may:

(a) Engage in the clinical practice of counseling alcohol and drug abusers;

(b) Diagnose or classify a person as an alcoholic or abuser of drugs; and

(c) Supervise certified clinical alcohol and drug abuse counselor interns and alcohol and drug abuse counselor interns.

Sec. 8. NRS 641C.340 is hereby amended to read as follows:

641C.340 1. The Board shall issue a certificate as a clinical alcohol and drug abuse counselor intern to a person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Pays the fees required pursuant to NRS 641C.470;
- (d) Submits proof to the Board that the person has received a master's degree or doctoral degree in a field of social science approved by the Board that includes comprehensive course work in clinical mental health, including the diagnosis of mental health disorders; and
- (e) Submits all the information required to complete an application for a certificate.

2. A certificate as a clinical alcohol and drug abuse counselor intern is valid for ~~1-year~~ **6 months** and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

3. A certified clinical alcohol and drug abuse counselor intern may, under the supervision of a licensed clinical alcohol and drug abuse counselor:

- (a) Engage in the clinical practice of counseling alcohol and drug abusers; and
- (b) Diagnose or classify a person as an alcoholic or drug abuser.

Sec. 9. NRS 641C.350 is hereby amended to read as follows:

641C.350 The Board shall issue a license as an alcohol and drug abuse counselor to:

- 1. A person who:
 - (a) Is not less than 21 years of age;
 - (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
 - (c) Has received a master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board;
 - (d) Has completed 4,000 hours of supervised counseling of alcohol and drug abusers;
 - (e) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;
 - (f) Pays the fees required pursuant to NRS 641C.470; and
 - (g) Submits all information required to complete an application for a license.

- 2. A person who:
 - (a) Is not less than 21 years of age;
 - (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
 - (c) Is:

- (1) Licensed as a clinical social worker pursuant to chapter 641B of NRS;
- (2) Licensed as a clinical professional counselor pursuant to chapter 641A of NRS;
- (3) Licensed as a marriage and family therapist pursuant to chapter 641A of NRS;
- (4) A nurse who is licensed pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university; or
- (5) Licensed as a clinical alcohol and drug abuse counselor pursuant to this chapter;
- (d) Has completed ~~for at least 6 months~~ **1,000 hours** of supervised counseling of alcohol and drug abusers approved by the Board;
- (e) Passes the written and oral examinations prescribed by the Board pursuant to NRS 641C.290;
- (f) Pays the fees required pursuant to NRS 641C.470; and
- (g) Submits all information required to complete an application for a license.

Sec. 10. NRS 641C.420 is hereby amended to read as follows:

641C.420 1. The Board shall issue a certificate as an alcohol and drug abuse counselor intern to a person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) ~~Has:~~

- ~~— (1) A high school diploma; or~~
- ~~— (2) A general equivalency diploma or an equivalent document;~~
- ~~— (d) Pays the fees required pursuant to NRS 641C.470;~~

~~[(e)]~~ **(d)** Submits proof to the Board that the person:

- (1) Is enrolled in a program ~~from~~ **in** which he or she ~~will receive an associate's degree,~~ **has completed at least 60 hours of credit toward the completion of a bachelor's degree in a field of social science approved by the Board;**

(2) Is enrolled in a program from which he or she will receive a master's degree or doctoral degree in a field of social science approved by the Board;
or

~~[(2)]~~ **(3)** Has received an associate's degree, bachelor's degree, master's degree or doctoral degree **that included at least 18 hours of credit specifically related to the practice of counseling alcohol and drug abusers** in a field of social science approved by the Board; ~~and~~

(e) Has completed not less than 30 hours of training specific to alcohol and drug abuse which must:

- (1) Include at least 6 hours of instructions relating to confidentiality and 6 hours of instruction relating to ethics; and**
- (2) Be approved by the Board; and**

(f) Submits all information required to complete an application for a certificate.

2. A certificate as an alcohol and drug abuse counselor intern is valid for ~~1 year~~ **6 months** and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

3. A certified alcohol and drug abuse counselor intern may, under the supervision of a licensed alcohol and drug abuse counselor or licensed clinical alcohol and drug abuse counselor:

- (a) Engage in the practice of counseling alcohol and drug abusers; and
- (b) Diagnose or classify a person as an alcoholic or drug abuser.

Sec. 11. NRS 641C.430 is hereby amended to read as follows:

641C.430 The Board may issue a certificate as a problem gambling counselor to:

1. A person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Has received a bachelor's degree, master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board;
- (d) Has completed not less than 60 hours of training specific to problem gambling approved by the Board;
- (e) Has completed at least 2,000 hours of supervised counseling of problem gamblers in a setting approved by the Board;
- (f) Passes the written **and oral** examination prescribed by the Board pursuant to NRS 641C.290;
- (g) Presents himself or herself when scheduled for an interview at a meeting of the Board;
- (h) Pays the fees required pursuant to NRS 641C.470; and
- (i) Submits all information required to complete an application for a certificate.

2. A person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Is licensed as:
 - (1) A clinical social worker pursuant to chapter 641B of NRS;
 - (2) A clinical professional counselor pursuant to chapter 641A of NRS;
 - (3) A marriage and family therapist pursuant to chapter 641A of NRS;
 - (4) A physician pursuant to chapter 630 of NRS;
 - (5) A nurse pursuant to chapter 632 of NRS and has received a master's degree or a doctoral degree from an accredited college or university;
 - (6) A psychologist pursuant to chapter 641 of NRS;
 - (7) An alcohol and drug abuse counselor pursuant to this chapter; or

- (8) A clinical alcohol and drug abuse counselor pursuant to this chapter;
- (d) Has completed not less than 60 hours of training specific to problem gambling approved by the Board;
- (e) Has completed at least 1,000 hours of supervised counseling of problem gamblers in a setting approved by the Board;
- (f) Passes the written **and oral** examination prescribed by the Board pursuant to NRS 641C.290;
- (g) Pays the fees required pursuant to NRS 641C.470; and
- (h) Submits all information required to complete an application for a certificate.

Sec. 12. NRS 641C.440 is hereby amended to read as follows:

641C.440 1. The Board may issue a certificate as a problem gambling counselor intern to a person who:

- (a) Is not less than 21 years of age;
- (b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- (c) Submits proof to the Board that the person:

(1) Has received a bachelor's degree, master's degree or a doctoral degree from an accredited college or university in a field of social science approved by the Board; or

(2) Is enrolled in a program at an accredited college or university from which he or she will receive a bachelor's degree, master's degree or a doctoral degree in a field of social science approved by the Board;

(d) Has completed not less than 30 hours of training specific to problem gambling approved by the Board;

(e) Demonstrates that a certified problem gambling counselor approved by the Board has agreed to supervise him or her in a setting approved by the Board;

(f) Pays the fees required pursuant to NRS 641C.470; and

(g) Submits all information required to complete an application for a certificate.

2. A certificate as a problem gambling counselor intern is valid for ~~1 year~~ **6 months** and, except as otherwise provided in subsection 3, may be renewed.

3. A certificate as a problem gambling counselor intern issued to a person on the basis that the person is enrolled in a program at an accredited college or university from which he or she will receive a bachelor's degree, master's degree or a doctoral degree in a field of social science approved by the Board may be renewed not more than nine times.

4. A certified problem gambling counselor intern may, under the supervision of a certified problem gambling counselor:

- (a) Engage in the practice of counseling problem gamblers; and
- (b) Assess and evaluate a person as a problem gambler.

Sec. 12.3. NRS 641C.460 is hereby amended to read as follows:

641C.460 1. A license or certificate that is not renewed on or before the date on which it expires is delinquent. The Board shall, within 30 days after

the license or certificate becomes delinquent, send a notice to the licensed or certified counselor or certified intern by certified mail, return receipt requested, to the address of the counselor or intern as indicated in the records of the Board.

2. A licensed or certified counselor ~~for~~ certified intern **or certified peer support specialist** may renew a delinquent license or certificate within 60 days after the license or certificate becomes delinquent by complying with the requirements of NRS 641C.450 and paying, in addition to the fee for the renewal of the license or certificate, the fee for the renewal of a delinquent license or certificate prescribed in NRS 641C.470.

3. A license or certificate expires 60 days after it becomes delinquent if it is not renewed within that period.

4. Except as otherwise provided in NRS 641C.530, a license or certificate that has expired may be restored if the applicant:

- (a) Submits to the Board an application to restore the license or certificate;
- (b) Pays the renewal fees for the period during which the license or certificate was expired and the fee for the restoration of a license or certificate prescribed in NRS 641C.470;
- (c) Passes the oral and written examinations prescribed by the Board;
- (d) Submits to the Board evidence of completion of the continuing education required by the Board; and
- (e) Submits all information required to complete the application.

Sec. 12.7. NRS 641C.470 is hereby amended to read as follows:

641C.470 1. The Board shall charge and collect not more than the following fees:

For the initial application for a license or certificate	\$150
For the issuance of a provisional license or certificate	125
For the issuance of an initial license or certificate	60
For the renewal of a license or certificate as an alcohol and drug abuse counselor, a license as a clinical alcohol and drug abuse counselor ~~for~~ ~~for~~ a certificate as a problem gambling counselor <u>or a certificate as a peer support specialist</u>	300
For the renewal of a certificate as a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor intern or a problem gambling counselor intern	75
For the renewal of a delinquent license or certificate	75
For the restoration of an expired license or certificate	150
For the restoration or reinstatement of a suspended or revoked license or certificate	300
For the issuance of a license or certificate without examination	150
For an examination	150

For the approval of a course of continuing education 150

2. The fees charged and collected pursuant to this section are not refundable.

Sec. 13. NRS 641C.530 is hereby amended to read as follows:

641C.530 1. The Board may use any information included in a report of criminal history that is obtained pursuant to this section or NRS 641C.260 in determining whether:

(a) To issue, renew, restore, suspend, revoke or reinstate a license or certificate pursuant to this chapter; or

(b) Any ground for imposing any disciplinary action exists pursuant to NRS 641C.700.

2. Before renewing, restoring or reinstating the license or certificate of a licensed counselor, certified counselor, ~~for~~ certified intern ~~for~~ **or certified peer support specialist**, the Board may, by regulation, require the licensed counselor, certified counselor, ~~for~~ certified intern **or certified peer support specialist** to submit to the Board a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. ~~{A regulation adopted pursuant to subsection 2 must set forth the circumstances under which the Board will require a detoxification technician to submit fingerprints and written authorization specified in that subsection before renewing, restoring or reinstating a certificate.}~~ ***Except as otherwise provided in this subsection, in reviewing the information included in a report of criminal history that is obtained pursuant to this section or NRS 641C.260, the Board may consider any original charge filed against an applicant, licensed counselor, certified counselor, ~~for~~ certified intern or certified peer support specialist that alleges a particular criminal act regardless of whether the person was ~~adjudicated guilty~~ convicted of, or entered a plea of guilty or nolo contendere to, a lesser charge. The Board shall not consider a charge filed against an applicant, licensed counselor, certified counselor, ~~for~~ certified intern or certified peer support specialist that alleges a particular criminal act for which, in the absence of a plea of guilty or nolo contendere to a lesser charge:***

(a) The applicant, licensed counselor, certified counselor, ~~for~~ certified intern **or certified peer support specialist** was ~~adjudicated~~ **found not guilty**; or

(b) The charges against the applicant, licensed counselor, certified counselor, ~~for~~ certified intern **or certified peer support specialist** were dismissed.

Sec. 13.3. **NRS 641C.700 is hereby amended to read as follows:**

641C.700 The grounds for initiating disciplinary action pursuant to the provisions of this chapter include:

1. Conviction of:

(a) A felony relating to the practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers ~~for~~ the practice of counseling problem gamblers ~~for~~ **or the practice of providing peer support specialist services;**

(b) An offense involving moral turpitude; or

(c) A violation of a federal or state law regulating the possession, distribution or use of a controlled substance or dangerous drug as defined in chapter 453 of NRS;

2. Fraud or deception in:

(a) Applying for a license or certificate;

(b) Taking an examination for a license or certificate;

(c) Documenting the continuing education required to renew or reinstate a license or certificate;

(d) Submitting a claim for payment to an insurer; or

(e) The practice of counseling alcohol and drug abusers ~~for~~ the clinical practice of counseling alcohol and drug abusers ~~for~~ **or the practice of providing peer support specialist services;**

3. Allowing the unauthorized use of a license or certificate issued pursuant to this chapter;

4. Professional incompetence;

5. The habitual use of alcohol or any other drug that impairs the ability of a licensed or certified counselor ~~for~~ certified intern **or certified peer support specialist** to engage in the practice of counseling alcohol and drug abusers ~~for~~ the clinical practice of counseling alcohol and drug abusers ~~for~~ **or the practice of providing peer support specialist services, as applicable;**

6. Engaging in the practice of counseling alcohol and drug abusers ~~for~~ the clinical practice of counseling alcohol and drug abusers **or the practice of providing peer support specialist services** with an expired, suspended or revoked license or certificate;

7. Engaging in behavior that is contrary to the ethical standards as set forth in the regulations of the Board; and

8. The operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

Sec. 13.7. NRS 641C.720 is hereby amended to read as follows:

641C.720 1. The Board or any of its members who become aware of any ground for initiating disciplinary action against a person engaging in the practice of counseling alcohol and drug abusers ~~for~~ the clinical practice of counseling alcohol and drug abusers **or the practice of providing peer support specialist services** in this State shall, and any other person who is so aware may, file a written complaint specifying the relevant facts with the Board. The

complaint must specifically charge one or more of the grounds for initiating disciplinary action.

2. If, after notice and a hearing as required by law, the Board determines that a licensed or certified counselor, ~~for~~ certified intern **or certified peer support specialist** has violated a provision of this chapter or any regulation adopted pursuant to this chapter, it may:

- (a) Administer a public reprimand;
- (b) Suspend the license or certificate and impose conditions for the removal of the suspension;
- (c) Revoke the license or certificate and prescribe the requirements for the reinstatement of the license or certificate;
- (d) If he or she is a licensed or certified counselor, require him or her to be supervised by another person while engaging in the practice of counseling alcohol and drug abusers or the clinical practice of counseling alcohol and drug abusers;
- (e) Require him or her to participate in treatment or counseling and pay the expenses of that treatment or counseling;
- (f) Require him or her to pay restitution to any person adversely affected by his or her acts or omissions;
- (g) Impose a fine of not more than \$5,000; or
- (h) Take any combination of the actions authorized by paragraphs (a) to (g), inclusive.

3. If a license or certificate is revoked or suspended pursuant to subsection 2, the licensed or certified counselor, ~~for~~ certified intern **or certified peer support specialist** may apply to the Board for reinstatement of the suspended license or certificate or may apply to the Board pursuant to the provisions of chapter 622A of NRS for reinstatement of the revoked license or certificate. The Board may accept or reject the application and may require the successful completion of an examination as a condition of reinstatement of the license or certificate.

4. The Board shall not administer a private reprimand.

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

6. The Board shall retain all complaints filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaints not acted upon.

Sec. 14. NRS 641C.900 is hereby amended to read as follows:

641C.900 ~~1. Except as otherwise provided in subsection 2, a~~ A person shall not engage in the practice of counseling alcohol and drug abusers, the clinical practice of counseling alcohol and drug abusers, ~~for~~ the practice of counseling problem gamblers **or the practice of providing peer support specialist services** unless the person is a licensed counselor, certified counselor, ~~for~~ certified intern ~~for~~

~~2. A person may engage in the practice of counseling alcohol and drug abusers under the supervision of a licensed counselor, the clinical practice of~~

counseling alcohol and drug abusers under the supervision of a clinical alcohol and drug abuse counselor or the practice of counseling problem gamblers under the supervision of a certified counselor for not more than 30 days if that person:

—(a) Is qualified to be licensed or certified pursuant to the provisions of this chapter; and

—(b) Submits an application to the Board for a license or certificate pursuant to the provisions of this chapter. **or certified peer support specialist.**

Sec. 15. NRS 641C.910 is hereby amended to read as follows:

641C.910 1. A person shall not:

(a) Hold himself or herself out to a member of the general public as a clinical alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor, an alcohol and drug abuse counselor intern, a problem gambling counselor, ~~for~~ a problem gambling counselor intern ~~for~~ **or a peer support specialist;**

(b) Use the title “clinical alcohol and drug abuse counselor,” “clinical alcohol and drug abuse counselor intern,” “alcohol and drug abuse counselor,” “alcohol and drug abuse counselor intern,” “drug abuse counselor,” “substance abuse counselor,” “problem gambling counselor,” “problem gambling counselor intern,” “gambling counselor ~~for~~,” ~~“detoxification technician”~~ **“peer support specialist”** or any similar title in connection with his or her work; ~~for~~

(c) Imply in any way that he or she is licensed or certified by the Board ~~for~~;

(d) Engage in the practice of counseling alcohol and drug abusers;

(e) Engage in the clinical practice of counseling alcohol and drug abusers; for

(f) Engage in the practice of counseling problem gamblers for; or

(g) Engage in the practice of providing peer support specialist services,

↪ unless the person is licensed or certified by the Board pursuant to the provisions of this chapter . ~~for a regulation adopted pursuant to NRS 641C.500.~~

2. If the Board believes that any person has violated or is about to violate any provision of this chapter or a regulation adopted pursuant thereto, it may bring an action in a court of competent jurisdiction to enjoin the person from engaging in or continuing the violation. An injunction:

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not prevent the criminal prosecution and punishment of a person who violates a provision of this chapter or a regulation adopted pursuant thereto.

Sec. 15.3. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

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

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

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

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

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

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

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

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

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

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

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

(c) A coroner.

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

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

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 449.4304.

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

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

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

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

(k) Every social worker.

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

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

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

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

(a) Aging and Disability Services Division;

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

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

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

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

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes

Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 15.7. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

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

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

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

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

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

(c) A coroner.

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

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

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

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

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect,

exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

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

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

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

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

Sec. 16. Sections 14, 15 and 16 of chapter 207, Statutes of Nevada 2003, at pages 1168 and 1169, are hereby amended to read as follows:

Secs. 14-16. **(Deleted by amendment.)**

Sec. 17. Section 191 of chapter 1, Statutes of Nevada 2005, 22nd Special Session, at page 57, is hereby amended to read as follows:

Sec. 191. **(Deleted by amendment.)**

Sec. 18. Section 193 of chapter 1, Statutes of Nevada 2005, 22nd Special Session, at page 58, is hereby amended to read as follows:

Sec. 193. **(Deleted by amendment.)**

Sec. 19. Section 220 of chapter 1, Statutes of Nevada 2005, 22nd Special Session, at page 67, is hereby amended to read as follows:

Sec. 220. 1. This section and section 211 of this act become effective upon passage and approval.

2. Sections 1 to 185.7, inclusive, 186 to 188.5, inclusive, and 208 to 219, inclusive, of this act become effective on October 1, 2005.

3. Sections 185.9, 189, 190, 192 and 194 to 207, inclusive, of this act, become effective on July 1, 2007.

~~[4.— Sections 190, 192, 194 and 195 of this act expire by limitation on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation.~~

~~—5.— Sections 191 and 193 of this act become effective on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation.]~~

Sec. 20. Section 69 of chapter 462, Statutes of Nevada 2013, at page 2746, is hereby amended to read as follows:

Sec. 69. 1. This section and sections 1, 2, 3, 5, 6, 7, 8 to 9.3, inclusive, 16.5 and 68 of this act become effective on July 1, 2013.

2. Sections 4, 7.1 to 7.9, inclusive, 13 to 16, inclusive, and 17 to 67, inclusive, of this act become effective:

(a) On July 1, 2013, for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2014, for all other purposes.

~~[3. Section 29 of this act expires by limitation on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for certification as a detoxification technician pursuant to NRS 641C.500 becomes effective.]~~

Sec. 21. 1. Any contracts or other agreements entered into by an officer or entity whose name has been changed pursuant to the provisions of this act are binding upon the officer or entity to which the responsibility for the administration of the provision of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer or entity to which the responsibility for the enforcement of the provisions of the contract or other agreements has been transferred.

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

Sec. 22. The Legislative Counsel shall:

1. In preparing the Nevada Revised Statutes, use the authority set forth in subsection 10 of NRS 220.120 to substitute appropriately the name of any agency or officer of the State whose name is changed by this act for the name which the agency or officer previously used; and

2. In preparing supplements to the Nevada Administrative Code, substitute appropriately the name of any agency or officer of the State whose name is changed by this act for the name which the agency or officer previously used.

Sec. 23. The amendatory provisions of sections 6, 7, 8 and 12 of this act, and the provisions of subsection 2 of NRS 641C.420 as amended by section 10 of this act, do not apply to the length of time a license or certificate is valid if the license or certificate is issued pursuant to the provisions of chapter 641C of NRS before July 1, 2015.

Sec. 24. NRS 641C.500 is hereby repealed.

Sec. 25. This act becomes effective on July 1, 2015.

TEXT OF REPEALED SECTION

641C.500 Adoption of regulations governing certification; scope of regulations; prohibitions; inapplicability of certain provisions of chapter.

1. The Board may, by regulation, provide for the certification of a person as a detoxification technician.

2. Any regulation adopted pursuant to subsection 1 must be consistent with the provisions of chapter 622A of NRS and must include, without limitation, provisions relating to:

(a) The requirements for submitting an application for a certificate, including, without limitation, the submission of a complete set of fingerprints pursuant to NRS 641C.260;

(b) The scope of practice for a person who is issued a certificate;

(c) The conduct of any investigation or hearing relating to an application for a certificate;

(d) The examination of an applicant for a certificate or a waiver of examination for an applicant;

(e) The requirements for issuing a certificate or provisional certificate;

(f) The duration, expiration, renewal, restoration, suspension, revocation and reinstatement of a certificate;

(g) The grounds for refusing the issuance, renewal, restoration or reinstatement of a certificate;

(h) The conduct of any disciplinary or other administrative proceeding relating to a person who is issued a certificate;

(i) The filing of a complaint against a person who is issued a certificate;

(j) The issuance of a subpoena for the attendance of witnesses and the production of books, papers and records;

(k) The payment of fees for:

(1) Witnesses, mileage and attendance at a hearing or deposition; and

(2) The issuance, renewal, restoration or reinstatement of a certificate;

(l) The imposition of a penalty for a violation of any provision of the regulations; and

(m) The confidentiality of any record or other information maintained by the Board relating to an applicant or the holder of a certificate.

3. A person shall not engage in any activity for which the Board requires a certificate as a detoxification technician pursuant to this section unless the person is the holder of such a certificate.

4. In addition to the provisions of subsection 2, a regulation adopted pursuant to this section must include provisions that are substantially similar to the requirements set forth in NRS 641C.280 and 641C.710. Any provision included in a regulation pursuant to this subsection remains effective until the provisions of NRS 641C.280 and 641C.710 expire by limitation.

5. Except as otherwise provided in this section and NRS 641C.900, 641C.910 and 641C.950, the provisions of this chapter do not apply to the holder of a certificate that is issued in accordance with a regulation adopted pursuant to this section.

6. As used in this section, "detoxification technician" means a person who is certified by the Board to provide screening for the safe withdrawal from alcohol and other drugs.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 98.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 332.

SUMMARY—Revises provisions governing ~~child custody,~~ child support ~~and visitation.~~ (BDR 11-49)

AN ACT relating to domestic relations; ~~clarifying that there is a presumption that joint legal custody and joint physical custody would be in the best interest of a minor child of a marriage under certain circumstances; providing a new formula by which to calculate child support when parents have joint physical custody of a child; defining the term “monthly household income” for the purposes of such a formula;~~ **increasing a parent’s monthly presumptive maximum amount for an obligation for the support of a child; providing a method to calculate the amount of child support to be paid in situations involving primary physical custody and joint physical custody;** revising the factors a court must consider in adjusting the amount of child support; ~~when parents have joint physical custody of a child; revising the circumstances which constitute changed circumstances for purposes of modifying a child support order; revising provisions governing orders awarding visitation of a minor child; defining the term “minor child” for the purposes of such visitation orders;~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

~~Under existing law, there is a presumption that joint custody is in the best interest of a minor child of a marriage if the parents agree to an award of joint custody. (NRS 125.490) Section 2 of this bill clarifies that the presumption concerns joint legal custody and joint physical custody of such a minor child.~~

~~In determining the amount of child support in a case in which the parents of a minor child have joint physical custody of the child, Nevada courts currently use the formula set forth by the Nevada Supreme Court in Wright v. Osburn, 114 Nev. 1367 (1998), which takes into account the gross monthly income of each parent. Section 6 of this bill sets forth a new formula by which a court will determine the amount of child support in cases involving joint physical custody, which takes into account the monthly household income of each parent. Section 5 of this bill defines the term “monthly household income” to include the gross monthly income of a parent and the gross monthly income of the current spouse or domestic partner or a cohabitant of the parent.~~

Existing law establishes a parent’s monthly obligation for the support of a child, which is calculated as a percentage of the gross monthly income of the parent. Such an obligation for support is subject to a presumptive maximum amount based on the income range within which a parent’s

gross monthly income falls. (NRS 125B.070) Section 8 of this bill: (1) revises the income ranges used to determine the presumptive maximum amount for an obligation for support; and (2) increases the presumptive maximum amount for an obligation for support for each income range. Section 8 also provides a method for calculating the total amount of child support to be paid by one parent to the other parent depending on whether one parent has primary physical custody or the parents share joint physical custody.

Existing law specifies certain factors that a court must take into consideration when adjusting an amount of child support. (NRS 125B.080) ~~Section 9 of this bill provides that if the amount of child support is determined pursuant to section 6, the court must take into consideration the relative monthly household income of both parents.~~

~~Existing law also provides that a child support order may be reviewed by a court at any time on the basis of changed circumstances. (NRS 125B.145) Section 10 of this bill provides that if the amount of child support ordered was determined pursuant to section 6, an increase in the monthly household income of the person entitled to receive child support payments pursuant to the order such that his or her monthly household income exceeds that of the person obligated to pay child support pursuant to the order is deemed to constitute changed circumstances requiring a review for modification of the order.~~

~~Existing law additionally sets forth certain requirements regarding any order that awards a party a right of visitation of a minor child. (NRS 125C.010) Section 11 of this bill requires any such order to provide that such a right of visitation generally remains effective as long as the child remains a minor child. Section 11 defines the term "minor child" using the definition of the term as it is used for purposes of child support, meaning a person who is: (1) under the age of 18 years; (2) under the age of 19 years, if the person is enrolled in high school; (3) under a legal disability; or (4) not declared emancipated.]~~
requires the court to take into consideration the child's standard of living in each parent's household and the specific circumstances of the child if the child: (1) has reached the age of majority; (2) has not graduated from high school; and (3) remains entitled to child support pursuant to a child support order. Section 9 further provides that when the court is taking into consideration the relative income of both parents, the court must consider any contributions made toward the payment of household expenses by an adult who is cohabitating with either parent of the child.

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

Section 1. [NRS 125.150 is hereby amended to read as follows:
~~125.150 Except as otherwise provided in NRS 125.155 and unless the action is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter 123A of NRS:~~
~~1. In granting a divorce, the court:~~

~~—(a) May award such alimony to the wife or to the husband, in a specified principal sum or as specified periodic payments, as appears just and equitable; and~~

~~—(b) Shall, to the extent practicable, make an equal disposition of the community property of the parties, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.~~

~~—2. Except as otherwise provided in this subsection, in granting a divorce, the court shall dispose of any property held in joint tenancy in the manner set forth in subsection 1 for the disposition of community property. If a party has made a contribution of separate property to the acquisition or improvement of property held in joint tenancy, the court may provide for the reimbursement of that party for his or her contribution. The amount of reimbursement must not exceed the amount of the contribution of separate property that can be traced to the acquisition or improvement of property held in joint tenancy, without interest or any adjustment because of an increase in the value of the property held in joint tenancy. The amount of reimbursement must not exceed the value, at the time of the disposition, of the property held in joint tenancy for which the contribution of separate property was made. In determining whether to provide for the reimbursement, in whole or in part, of a party who has contributed separate property, the court shall consider:~~

~~—(a) The intention of the parties in placing the property in joint tenancy;~~

~~—(b) The length of the marriage; and~~

~~—(c) Any other factor which the court deems relevant in making a just and equitable disposition of that property.~~

~~—* As used in this subsection, “contribution” includes, without limitation, a down payment, a payment for the acquisition or improvement of property, and a payment reducing the principal of a loan used to finance the purchase or improvement of property. The term does not include a payment of interest on a loan used to finance the purchase or improvement of property, or a payment made for maintenance, insurance or taxes on property.~~

~~—3. Except as otherwise provided in NRS 125.141, whether or not application for suit money has been made under the provisions of NRS 125.040, the court may award a reasonable attorney’s fee to either party to an action for divorce.~~

~~—4. In granting a divorce, the court may also set apart such portion of the husband’s separate property for the wife’s support, the wife’s separate property for the husband’s support or the separate property of either spouse for the support of their children as is deemed just and equitable.~~

~~—5. In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the payments required by the decree must cease, unless it was otherwise ordered by the court.~~

~~6. If the court adjudicates the property rights of the parties, or an agreement by the parties settling their property rights has been approved by the court, whether or not the court has retained jurisdiction to modify them, the adjudication of property rights, and the agreements settling property rights, may nevertheless at any time thereafter be modified by the court upon written stipulation signed and acknowledged by the parties to the action, and in accordance with the terms thereof.~~

~~7. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony the spouse has been ordered to pay.~~

~~8. In addition to any other factors the court considers relevant in determining whether to award alimony and the amount of such an award, the court shall consider:~~

- ~~(a) The financial condition of each spouse;~~
- ~~(b) The nature and value of the respective property of each spouse;~~
- ~~(c) The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;~~
- ~~(d) The duration of the marriage;~~
- ~~(e) The income, earning capacity, age and health of each spouse;~~
- ~~(f) The standard of living during the marriage;~~
- ~~(g) The career before the marriage of the spouse who would receive the alimony;~~
- ~~(h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;~~
- ~~(i) The contribution of either spouse as homemaker;~~
- ~~(j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and~~
- ~~(k) The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.~~

~~9. In granting a divorce, the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the court considers relevant in determining whether such alimony should be granted, the court shall consider:~~

~~— (a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and~~

~~— (b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.~~

~~— 10. If the court determines that alimony should be awarded pursuant to the provisions of subsection 9:~~

~~— (a) The court, in its order, shall provide for the time within which the spouse who is the recipient of the alimony must commence the training or education relating to a job, career or profession.~~

~~— (b) The spouse who is ordered to pay the alimony may, upon changed circumstances, file a motion to modify the order.~~

~~— (c) The spouse who is the recipient of the alimony may be granted, in addition to any other alimony granted by the court, money to provide for:~~

~~— (1) Testing of the recipient's skills relating to a job, career or profession;~~

~~— (2) Evaluation of the recipient's abilities and goals relating to a job, career or profession;~~

~~— (3) Guidance for the recipient in establishing a specific plan for training or education relating to a job, career or profession;~~

~~— (4) Subsidization of an employer's costs incurred in training the recipient;~~

~~— (5) Assisting the recipient to search for a job; or~~

~~— (6) Payment of the costs of tuition, books and fees for:~~

~~— (I) The equivalent of a high school diploma;~~

~~— (II) College courses which are directly applicable to the recipient's goals for his or her career; or~~

~~— (III) Courses of training in skills desirable for employment.~~

~~— 11. For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, "gross monthly income" has the meaning ascribed to it in [NRS 125B.070.] **section 4 of this act.** (Deleted by amendment.)~~

Sec. 2. [NRS 125.490 is hereby amended to read as follows:

~~— 125.490 1. There is a presumption, affecting the burden of proof, that joint **legal custody and joint physical custody** would be in the best interest of a minor child if the parents have agreed to an award of joint **legal custody and joint physical custody** or so agree in open court at a hearing for the purpose of determining the custody of the minor child or children of the marriage.~~

~~— 2. The court may award joint legal custody without awarding joint physical custody in a case where the parents have agreed to joint legal custody.~~

~~— 3. For assistance in making a determination whether an award of joint **legal custody and joint physical custody** is appropriate, the court may direct that an investigation be conducted.] (Deleted by amendment.)~~

Sec. 3. ~~{Chapter 125B of NRS is hereby amended by adding thereto the provisions set forth as sections 4, 5 and 6 of this act.} (Deleted by amendment.)~~

Sec. 4. ~~{“Gross monthly income” means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.} (Deleted by amendment.)~~

Sec. 5. ~~{“Monthly household income” means the total amount of income received in a parent’s household from the gross monthly income of the parent and the gross monthly income of the current spouse or domestic partner or a cohabitant of the parent. As used in this section, “domestic partner” means a person who is in a domestic partnership that is registered pursuant to chapter 122A of NRS and that has not been terminated pursuant to that chapter.} (Deleted by amendment.)~~

Sec. 6. ~~{If the parents of a child or children are awarded joint physical custody of the child or children, the amount of child support to be paid by the parent with the higher monthly household income to the parent with the lower monthly household income must be calculated as follows:~~

~~—1. The total combined monthly household income of both parents is multiplied by the applicable percentage according to the following schedule:~~

~~—(a) For one child, 18 percent;~~

~~—(b) For two children, 25 percent;~~

~~—(c) For three children, 29 percent;~~

~~—(d) For four children, 31 percent; and~~

~~—(e) For each additional child, an additional 2 percent.~~

~~—2. The amount determined pursuant to subsection 1 is multiplied by 50 percent. The resulting amount is added to the amount determined pursuant to subsection 1 to determine the total combined child support obligation of both parents.~~

~~—3. The amount determined pursuant to subsection 2 is multiplied by 50 percent, resulting in the total child support obligation for each household.~~

~~—4. Each parent is assigned a percentage of the amount determined pursuant to subsection 3 for which he or she is responsible. The percentage a parent is assigned is determined in accordance with the percentage attributable to him or her of the total combined monthly household income of both parents. To calculate such a percentage, the monthly household income of a parent is divided by the total combined monthly household income of both parents. The resulting decimal amount, when converted to a percentage, represents the percentage attributable to that parent of the total combined monthly household income of both parents. The percentage assigned to that parent is used to determine the amount of child support for which he or she is responsible.~~

~~5. To determine the amount of child support for which a parent is responsible, the total child support obligation determined pursuant to subsection 3 is multiplied by the percentage assigned to the parent in subsection 4.~~

~~6. The difference between the amount of child support for which each parent is responsible, as determined pursuant to subsection 5, represents the final amount of child support to be paid by the parent with the higher monthly household income to the parent with the lower monthly household income.~~ **(Deleted by amendment.)**

Sec. 7. ~~NRS 125B.002 is hereby amended to read as follows:~~
~~125B.002 As used in NRS 125B.002 to 125B.180, inclusive, and sections 4, 5 and 6 of this act, unless the context otherwise requires, the words and terms defined in NRS 125B.004 and 125B.008 and sections 4 and 5 of this act have the meanings ascribed to them in those sections.~~ **(Deleted by amendment.)**

Sec. 8. NRS 125B.070 is hereby amended to read as follows:

125B.070 1. As used in this section and NRS 125B.080, unless the context otherwise requires :

(a) “Gross monthly income” means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.

(b) “Obligation ~~for~~ “obligation” for support” means the sum certain dollar amount determined according to the following schedule:

- (1) ~~(a)~~ For one child, 18 percent;
- (2) ~~(b)~~ For two children, 25 percent;
- (3) ~~(c)~~ For three children, 29 percent;
- (4) ~~(d)~~ For four children, 31 percent; and
- (5) ~~(e)~~ For each additional child, an additional 2 percent,

↪ of a parent’s gross monthly income, but not more than the presumptive maximum amount per month per child set forth for the parent in subsection 2 for an obligation for support determined pursuant to subparagraphs (1) to (4), ~~paragraphs (a) to (d),~~ inclusive, unless the court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of NRS 125B.080.

2. For the purposes of paragraph (b) of subsection 1, the presumptive maximum amount per month per child for an obligation for support, as adjusted pursuant to subsection 3, is:

PRESUMPTIVE MAXIMUM AMOUNT
 The Presumptive Maximum Amount ~~(the)~~
~~(Parent May Be Required to Pay)~~
for an obligation for support

INCOME RANGE

If the Parent's Gross Monthly Income Is at Least But Less Than per Month per Child Pursuant to Paragraph (b) of Subsection 1 Is

\$0 -	~~[\$4,168]~~ \$4,235	~~[\$500]~~ \$670
~~[4,168]~~ 4,236 -	~~[6,251]~~ 6,351	~~[550]~~ 817
~~[6,251]~~ 6,352 -	~~[8,334]~~ 8,467	~~[600]~~ 964
~~[8,334]~~ 8,468 -	~~[10,418]~~ 10,585	~~[650]~~ 1,151
~~[10,418]~~ 10,586 -	~~[12,501]~~ 12,701	~~[700]~~ 1,338
~~[12,501]~~ 12,702 -	~~[14,583]~~ 14,816	~~[750]~~ 1,543
14,817	No Limit	1,748

~~If a parent's gross monthly income is equal to or greater than \$14,583, the presumptive maximum amount the parent may be required to pay pursuant to paragraph (b) of subsection 1 is \$800.~~

3. The presumptive maximum amounts set forth in subsection 2 for the obligation for support must be adjusted on July 1 of each year for the fiscal year beginning that day and ending June 30 in a rounded dollar amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. On April 1 of each year, the Office of Court Administrator shall determine the amount of the increase or decrease required by this subsection, establish the adjusted amounts to take effect on July 1 of that year and notify each district court of the adjusted amounts.

4. To calculate the support of a child in a case in which one parent has primary physical custody of the child, the applicable percentage set forth in paragraph (b) of subsection 1 will be applied to the gross monthly income of the noncustodial parent. Subject to the presumptive maximum amount set forth in subsection 2 for an obligation for support, and unless the court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of NRS 125B.080, the resulting amount is the monthly child support obligation of the noncustodial parent.

5. To calculate the support of a child in a case in which the parents share joint physical custody of the child, the applicable percentage set forth in paragraph (b) of subsection 1 will be applied to each parent's gross monthly income. Subject to the presumptive maximum amounts set forth in subsection 2 for an obligation for support, the child support obligation of the parent who has the lower gross monthly income will be subtracted from the child support obligation of the parent who has the higher gross monthly income. Unless the court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of NRS 125B.080, the resulting amount is the monthly child support obligation of the parent who has the higher gross monthly income.

6. As used in this section ~~["Office"]~~ :

(a) "Joint physical custody" means a custodial arrangement in which each parent has physical custody and control of a child for at least 146 days each year.

(b) “Office of Court Administrator” means the Office of Court Administrator created pursuant to NRS 1.320.

(c) “Primary physical custody” means a custodial arrangement in which one parent has physical custody and control of a child for more than 219 days each year.

Sec. 9. NRS 125B.080 is hereby amended to read as follows:

125B.080 Except as otherwise provided in NRS 425.450:

1. A court of this State shall apply the appropriate formula set forth in NRS 125B.070 ~~for section 6 of this act, as applicable,~~ to:

(a) Determine the required support in any case involving the support of children.

(b) Any request filed after July 1, 1987, to change the amount of the required support of children.

2. If the parties agree as to the amount of support required, the parties shall certify that the amount of support is consistent with the appropriate formula set forth in NRS 125B.070 ~~for section 6 of this act, as applicable,~~ If the amount of support deviates from the ~~applicable~~ formula, the parties must stipulate sufficient facts in accordance with subsection 9 which justify the deviation to the court, and the court shall make a written finding thereon. Any inaccuracy or falsification of financial information which results in an inappropriate award of support is grounds for a motion to modify or adjust the award.

3. If the parties disagree as to the amount of the gross monthly income ~~for monthly household income~~ of either party, ~~as applicable,~~ the court shall determine the amount and may direct either party to furnish financial information or other records, including income tax returns for the preceding 3 years. Once a court has established an obligation for support by reference to a formula set forth in NRS 125B.070 ~~for section 6 of this act, as applicable,~~ any subsequent modification or adjustment of that support, except for any modification or adjustment made pursuant to subsection 3 of NRS 125B.070 or NRS 425.450 or as a result of a review conducted pursuant to subsection 1 of NRS 125B.145, must be based upon changed circumstances.

4. Notwithstanding the formulas set forth in NRS 125B.070, the minimum amount of support that may be awarded by a court in any case ~~in which a parent has primary physical custody~~ is \$100 per month per child, unless the court makes a written finding that the obligor is unable to pay the minimum amount. Willful underemployment or unemployment is not a sufficient cause to deviate from the awarding of at least the minimum amount.

5. It is presumed that the basic needs of a child are met by the formulas set forth in NRS 125B.070 ~~and section 6 of this act.~~ This presumption may be rebutted by evidence proving that the needs of a particular child are not met by the applicable formula.

6. If the amount of the awarded support for a child is greater or less than the amount which would be established under the applicable formula, the court shall:

(a) Set forth findings of fact as to the basis for the deviation from the formula; and

(b) Provide in the findings of fact the amount of support that would have been established under the applicable formula.

7. Expenses for health care which are not reimbursed, including expenses for medical, surgical, dental, orthodontic and optical expenses, must be borne equally by both parents in the absence of extraordinary circumstances.

8. If a parent who has an obligation for support is willfully underemployed or unemployed to avoid an obligation for support of a child, that obligation must be based upon the parent's true potential earning capacity.

9. The court shall consider the following factors when adjusting the amount of support of a child ~~upon specific findings of fact~~, **to establish an amount of support that is adequate to fulfill a child's needs and is fair to both parents based on the circumstances of the case:**

- (a) The cost of health insurance;
- (b) The cost of child care;
- (c) Any special educational needs of the child;
- (d) The age of the child;
- (e) The legal responsibility of the parents for the support of others;
- (f) The value of services contributed by either parent;
- (g) Any public assistance paid to support the child;
- (h) Any expenses reasonably related to the mother's pregnancy and confinement;

(i) The cost of transportation of the child to and from visitation if the custodial parent moved with the child from the jurisdiction of the court which ordered the support and the noncustodial parent remained;

(j) The amount of time the child spends with each parent;

(k) Any other necessary expenses for the benefit of the child; and

(l) The relative income of both parents ~~and~~

~~(m) If the amount of support is determined pursuant to section 6 of this act, the relative monthly household income of both parents,~~ **including, without limitation, any contributions made toward the payment of household expenses by an adult who is cohabitating with either parent;**

(m) The child's standard of living in each parent's household; and

(n) The specific circumstances of the child if the child:

(1) Has reached the age of majority;

(2) Has not graduated from high school; and

(3) Remains entitled to support pursuant to an order for the support of a child.

Sec. 10. ~~INRS 125B.145 is hereby amended to read as follows:~~

~~125B.145 1. An order for the support of a child must, upon the filing of a request for review by:~~

~~(a) The Division of Welfare and Supportive Services of the Department of Health and Human Services, its designated representative or the district~~

attorney, if the Division of Welfare and Supportive Services or the district attorney has jurisdiction in the case; or

~~— (b) A parent or legal guardian of the child, be reviewed by the court at least every 3 years pursuant to this section to determine whether the order should be modified or adjusted. Each review conducted pursuant to this section must be in response to a separate request.~~

~~— 2. If the court:~~

~~— (a) Does not have jurisdiction to modify the order, the court may forward the request to any court with appropriate jurisdiction.~~

~~— (b) Has jurisdiction to modify the order and, taking into account the best interests of the child, determines that modification or adjustment of the order is appropriate, the court shall enter an order modifying or adjusting the previous order for support in accordance with the requirements of NRS 125B.070 or section 6 of this act, as applicable, and 125B.080.~~

~~— 3. The court shall ensure that:~~

~~— (a) Each person who is subject to an order for the support of a child is notified, not less than once every 3 years, that the person may request a review of the order pursuant to this section; or~~

~~— (b) An order for the support of a child includes notification that each person who is subject to the order may request a review of the order pursuant to this section.~~

~~— 4. An order for the support of a child may be reviewed at any time on the basis of changed circumstances. For the purposes of this subsection, [a] the following shall be deemed to constitute changed circumstances requiring a review for modification of the order for the support of a child:~~

~~— (a) A change of 20 percent or more in the gross monthly income of a person who is subject to an order for the support of a child . [shall be deemed to constitute changed circumstances requiring a review for modification of the order for the support of a child.]~~

~~— (b) Notwithstanding the provisions of paragraph (a), if the amount of support set forth in an order for the support of a child was determined pursuant to section 6 of this act, an increase in the monthly household income of the person entitled to receive the payments for the support of the child pursuant to the order such that the person's monthly household income exceeds the monthly household income of the person obligated to make payments for the support of the child pursuant to the order.~~

~~— 5. As used in this section [:~~

~~— (a) "Gross monthly income" has the meaning ascribed to it in NRS 125B.070.~~

~~— (b) "Order", "order for the support of a child" means such an order that was issued or is being enforced by a court of this State.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 125C.010 is hereby amended to read as follows:~~

~~— 125C.010 1. Any order awarding a party a right of visitation of a minor child must:~~

~~—(a) Define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved; [and]~~

~~—(b) Provide that, subject to a subsequent finding by a court of competent jurisdiction that the best interest of the child is not achieved by such visitation, the right of visitation remains effective as long as the child remains a minor child; and~~

~~—(c) Specify that the State of Nevada or the state where the child resides within the United States of America is the habitual residence of the child.~~

~~→ The order must include all specific times and other terms of the right of visitation.~~

~~— 2. As used in this section [“sufficient”]:~~

~~—(a) “Minor child” has the meaning ascribed to it in NRS 125B.200.~~

~~—(b) “Sufficient particularity” means a statement of the rights in absolute terms and not by the use of the term “reasonable” or other similar term which is susceptible to different interpretations by the parties. (Deleted by amendment.)~~

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 106.

Bill read second time.

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

Amendment No. 379.

AN ACT relating to public works; revising provisions relating to contracts between a public body and a design professional; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides standard provisions that must be included in a public works contract between a public body and a design professional ~~that is~~ **who is not a member of a design-build team.** (NRS 338.155) A design professional is defined in existing law as a professional engineer, professional land surveyor, architect, interior designer, residential designer or landscape architect, or a business entity that is engaged in the business of professional engineering, land surveying, architecture or landscape architecture. (NRS 338.010) This bill eliminates the ~~requirement~~ **authority of a public body to include in a contract with such a design professional a provision requiring that** ~~the~~ **the** design professional ~~who is not a member of a design-build team~~ defend the public body in any lawsuit alleging negligence, errors or omissions, recklessness or intentional misconduct on the part of the design professional or his or her employees or agents ~~resulting from his or her work on a project,~~ **which are based upon or arising out of the professional services of the design professional.** In ~~addition,~~ **such circumstances,** this bill ~~also~~

provides that if the design professional is held to be liable as a result of a lawsuit, the judge or jury shall order the design professional to reimburse the public body for a proportionate share of the attorney's fees and costs the public body incurred in defending the action. **However, this bill retains the authority in existing law for a public body to include a provision in a contract with a design professional requiring that the design professional defend the public body in any lawsuit alleging negligence, errors or omissions, recklessness or intentional misconduct of the design professional or his or her employees or agents which are not based upon or arising out of the professional services of the design professional.**

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

Section 1. NRS 338.155 is hereby amended to read as follows:

338.155 1. If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

(a) Must set forth:

(1) The specific period within which the public body must pay the design professional.

(2) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

(3) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to subparagraph (1).

(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

(b) May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to subparagraph (1) of paragraph (a).

(c) May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

(d) Must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

(e) ~~[Except as otherwise provided in this paragraph, may]~~ **May** require the design professional to ~~[defend]~~ indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence,

errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. ~~If the insurer by which the design professional is insured against professional liability does not so~~ ~~The design professional shall not be required to~~

(f) Must not require the design professional to defend the public body and the employees, officers and agents of the public body ~~[-and]~~ with respect to the liabilities, damages, losses, claims, actions or proceedings caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional which are based upon or arising out of the professional services of the design professional. If the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the public body , *as reimbursement for the attorney's fees and costs incurred by the public body in defending the action*, by the design professional in an amount which is proportionate to the liability of the design professional.

(g) May require the design professional to defend the public body and the employees, officers and agents of the public body with respect to the liabilities, damages, losses, claims, actions or proceedings caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional which are not based upon or arising out of the professional services of the design professional.

2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d), ~~[-or]~~ (e) , **(f) or (g)** of subsection 1 is void.

3. As used in this section, "agents" means those persons who are directly involved in and acting on behalf of the public body or the design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Ellison moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 113.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 98.

AN ACT relating to juvenile justice; revising provisions governing the sealing of juvenile records; setting forth factors that the juvenile court may consider in determining whether a child has been rehabilitated to the satisfaction of the juvenile court; providing that **certain** portions of juvenile records ~~[-determined by the court to be pertinent to the enforcement and~~

~~collection of~~ **relating to** certain civil judgments must not be sealed until the judgment is satisfied or expires; including the Chief of the Youth Parole Bureau of the Division of Child and Family Services of the Department of Health and Human Services as a person entitled to notification of the filing of a petition for the sealing of juvenile records and authorized to testify at a hearing on the petition if the circumstances warrant; revising the circumstances in which the juvenile court may order the inspection of sealed juvenile records; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if a child is less than 21 years of age, the child or a probation officer on behalf of the child may petition the juvenile court for an order sealing all records relating to the child. (NRS 62H.130) **Section 1** of this bill revises the requirements for such a petition to be filed. Existing law also provides that the juvenile court shall enter an order sealing all records relating to a child if the juvenile court finds that: (1) during the previous 3 years, the child has not been convicted of a felony or of any misdemeanor involving moral turpitude; and (2) the child has been rehabilitated to the satisfaction of the juvenile court. (NRS 62H.130) **Section 1** instead provides that if the juvenile court makes such findings, then the juvenile court: (1) may enter an order sealing all records relating to the child ~~[that pertain to an event which occurred when]~~ **if the child [was] is** less than 18 years of age; and (2) shall enter an order sealing all records relating to the child ~~[that pertain to an event which occurred when]~~ **if the child [was] is** 18 years of age or older. **Section 1** also: (1) sets forth various factors that the juvenile court may consider in determining whether a child has been rehabilitated to the satisfaction of the juvenile court; and (2) provides that if the juvenile court retains jurisdiction over a civil judgment and a person against whom the civil judgment was entered, ~~[any portion of a record relating to a child that the juvenile court determines is pertinent to the enforcement and collection of the civil judgment]~~ **the case caption, case number and order entering the civil judgment** must not be sealed until the civil judgment is satisfied or expires.

Existing law requires the juvenile court to notify the district attorney and, in certain circumstances, the chief probation officer, if a petition is filed to seal juvenile records. Additionally, the district attorney and the chief probation officer, any of their deputies or any other person who has evidence that is relevant to consideration of the petition is authorized to testify at the hearing on the petition. (NRS 62H.130, 62H.150) **Sections 1 and 3** of this bill include the Chief of the Youth Parole Bureau of the Division of Child and Family Services of the Department of Health and Human Services as a person who, if the circumstances warrant, is entitled to notification of the filing of a petition for the sealing of juvenile records and is authorized to testify at a hearing on the petition.

Existing law further provides that the juvenile court may order the inspection of juvenile records that are sealed in certain circumstances ~~[]~~ **, including if the juvenile court determines that the inspection of the records is**

necessary to perform bona fide outcome and recidivism studies.
 (NRS 62H.170) **Section 4 of this bill : (1) adds to these circumstances the situation in which the person who is the subject of the records has committed an act which subjects the person to the jurisdiction of the juvenile court and which may form the basis of a civil action and a person who, in good faith, intends to bring or has brought the civil action, or any other person who is a party to the civil action, petitions the juvenile court to permit inspection of the records to obtain information relating to the person who is the subject of the records** ~~};~~ **; and (2) specifies that performing bona fide outcome and recidivism studies may include using personal identifying information from sealed juvenile records to perform criminal background checks on persons who were adjudicated pursuant to title 5 of NRS.**

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

Section 1. NRS 62H.130 is hereby amended to read as follows:

62H.130 1. If a child is less than 21 years of age, the child or a probation *or parole* officer on behalf of the child may petition the juvenile court for an order sealing all records relating to the child. The petition may be filed ~~not~~ :

(a) *Not* earlier than 3 years after the child ~~is~~:

~~—(a) Was~~ *was* last adjudicated in need of supervision, ~~for~~ adjudicated delinquent ~~};~~ *or placed under the supervision of the juvenile court pursuant to NRS 62C.230; and*

(b) ~~Was last referred to the juvenile court,~~
~~which is later.~~ *If, at the time the petition is filed, the child is not delinquent and does not have any delinquent or criminal charges pending.*

2. If a petition is filed pursuant to this section, the juvenile court shall notify the district attorney and, if a probation *or parole* officer is not the petitioner, the chief probation officer ~~};~~ *or the Chief of the Youth Parole Bureau.*

3. The district attorney and the chief probation officer ~~};~~ or any of their deputies, *the Chief of the Youth Parole Bureau or his or her designee*, or any other person who has evidence that is relevant to consideration of the petition may testify at the hearing on the petition.

4. ~~After~~ *Except as otherwise provided in subsection 6, after* the hearing on the petition, ~~the juvenile court shall enter an order sealing all records relating to the child~~ if the juvenile court finds that ~~};~~

~~—(a) During~~ *during* the applicable 3-year period, the child has not been convicted of a felony or of any misdemeanor involving moral turpitude ~~};~~ and

~~[(b) The]~~ *the* child has been rehabilitated to the satisfaction of the juvenile court ~~};~~ *the juvenile court:*

(a) *May enter an order sealing all records relating to the child that pertain to an event which occurred when if the child was is less than 18 years of age; and*

(b) ~~Shall enter an order sealing all records relating to the child that pertain to an event which occurred when~~ if the child ~~was~~ is 18 years of age or older.

5. In determining whether a child has been rehabilitated to the satisfaction of the juvenile court pursuant to subsection 4, the juvenile court may consider:

(a) The age of the child;

(b) The nature of the offense and the role of the child in the commission of the offense;

(c) The behavior of the child after the child was last adjudicated in need of supervision ~~for~~ or adjudicated delinquent, ~~for~~ placed under the supervision of the juvenile court pursuant to NRS 62C.230 ~~for~~ or placed with a suitable person or in an appropriate facility by a probation officer pursuant to subsection 5 of NRS 62C.300;

(d) The response of the child to any treatment or rehabilitation program;

(e) The education and employment history of the child;

(f) The statement of the victim;

(g) The nature of any criminal offense for which the child was convicted;

(h) Whether the sealing of the record would be in the best interest of the child and the State; and

~~(h)~~ (i) Any other circumstance that may relate to the rehabilitation of the child.

6. If the juvenile court retains jurisdiction over a civil judgment and a person against whom the civil judgment was entered pursuant to NRS 62B.420, ~~any portion of a record relating to a child that the juvenile court determines is pertinent to the enforcement and collection of the civil judgment~~ the case caption, case number and order entering the civil judgment must not be sealed until the civil judgment is satisfied or expires. After the civil judgment is satisfied or expires, the child or a person named as a judgment debtor may file a petition to seal ~~any such portion of the record~~ such information.

Sec. 2. NRS 62H.140 is hereby amended to read as follows:

62H.140 Except as otherwise provided in NRS **62H.130** and 62H.150, when a child reaches 21 years of age, all records relating to the child must be sealed automatically.

Sec. 3. NRS 62H.150 is hereby amended to read as follows:

62H.150 1. If a child is adjudicated delinquent for an unlawful act listed in subsection 6 and the records relating to that unlawful act have not been sealed by the juvenile court pursuant to NRS 62H.130 before the child reaches 21 years of age, ***unless the records have not been sealed pursuant to subsection 6 of NRS 62H.130,*** those records must not be sealed before the child reaches 30 years of age.

2. After the child reaches 30 years of age, the child may petition the juvenile court for an order sealing those records.

3. If a petition is filed pursuant to this section, the juvenile court shall notify the district attorney and the chief probation officer ~~H~~ **or the Chief of the Youth Parole Bureau.**

4. The district attorney and the chief probation officer ~~H~~ or any of their deputies, **the Chief of the Youth Parole Bureau or his or her designee**, or any other person who has evidence that is relevant to consideration of the petition may testify at the hearing on the petition.

5. After the hearing on the petition, the juvenile court may enter an order sealing the records relating to the child if the juvenile court finds that, during the period since the child reached 21 years of age, the child has not been convicted of any offense, except for minor moving or standing traffic offenses.

6. The provisions of this section apply to any of the following unlawful acts:

(a) An unlawful act which, if committed by an adult, would have constituted:

(1) Sexual assault pursuant to NRS 200.366;

(2) Battery with intent to commit sexual assault pursuant to NRS 200.400; or

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

(b) An unlawful act which would have been a felony if committed by an adult and which involved the use or threatened use of force or violence.

Sec. 4. NRS 62H.170 is hereby amended to read as follows:

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

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

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

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

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

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

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

(d) ***The person who is the subject of the records has committed an act which subjects the person to the jurisdiction of the juvenile court and which may form the basis of a civil action and a person who, in good faith, intends to bring or has brought the civil action, or any other person who is a party to the civil action, petitions the juvenile court to permit the inspection of the***

records to obtain information relating to the person who is the subject of the records; or

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

(1) Perform bona fide outcome and recidivism studies ~~that~~, **which may include, without limitation, using personal identifying information from sealed juvenile records to perform criminal background checks on persons who were adjudicated pursuant to this title;**

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

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

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

↪ Personal identifying information contained in records inspected **or obtained from criminal background checks** pursuant to this paragraph must remain confidential in a manner consistent with any applicable laws and regulations.

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

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 128.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 99.

AN ACT relating to powers of attorney; creating a power of attorney for health care decisions for adults with intellectual disabilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth provisions governing durable powers of attorney for health care decisions. (NRS 162A.700-162A.860) Existing law specifically provides an example of a form for a power of attorney for health care. (NRS 162A.860) **Section 3** of this bill provides ~~(an example)~~ **examples** of a form for a power of attorney for health care for adults with intellectual disabilities ~~that~~ **and a form for end-of-life decisions for adults with intellectual disabilities.**

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

Section 1. Chapter 162A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *“Intellectual disability” means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.*

Sec. 3. 1. *The form of a power of attorney for health care for an adult with an intellectual disability may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:*

**DURABLE POWER OF ATTORNEY
FOR HEALTH CARE DECISIONS**

My name is (insert your name) and my address is (insert your address). I would like to designate (insert the name of the person you wish to designate as your agent ~~to make~~ for health care decisions for you) as my agent ~~to make~~ for health care decisions for me if I am sick or hurt and need to see a doctor or go to the hospital. I understand what this means.

If I am sick or hurt, my agent should take me to the doctor. If my agent is not with me when I become sick or hurt, please contact my agent and ask him or her to come to the doctor’s office. I would like the doctor to speak with my agent and me about my sickness or injury and whether I need any medicine or other treatment. After ~~my agent speaks~~ we speak with the doctor, I would like my agent to ~~decide what care or treatment I should receive and~~ decide what care or treatment I should receive and speak with me about ~~that~~ the care or treatment. When we have made decisions about the care or treatment, my agent will tell the doctor about our decisions and sign any necessary papers.

If I am very sick or hurt, I may need to go to the hospital. I would like my agent to help me decide if I need to go to the hospital. If I go to the hospital, I would like the people who work at the hospital to try very hard to care for me. If I am able to communicate, I would like the doctor at the hospital to speak with me and my agent about what care or treatment I should receive, even if I am unable to understand what is being said about me. ~~I would also like the doctor at the hospital to speak with my agent about what care or treatment I should receive.~~ After ~~my agent speaks~~ we speak with the doctor, I would like my agent to help me decide what care or treatment I should receive. ~~and, if I am able to communicate, speak with me about that care or treatment.~~ Once we decide, my agent will sign any necessary paperwork. If I am unable to communicate because of my illness or injury, I would like my agent to make decisions about my care or treatment based on what he or she thinks I would do and what is best for me.

I would like my agent to help me decide if I need to see a dentist and help me make decisions about what care or treatment I should receive from the dentist. Once we decide, my agent will sign any necessary paperwork.

I would also like my agent to be able to see and have copies of all my medical records. If my agent requests to see or have copies of my medical records, please allow him or her to see or have copies of the records.

I understand that my agent cannot make me receive any care or treatment that I do not want. I also understand that I can take away this power from my agent at any time, either by telling him or her that they are no longer my agent or by putting it in writing.

If my agent is unable to make health care decisions for me, then I designate (insert the name of another person you wish to designate as your alternative agent to make health care decisions for you) as my agent to make health care decisions for me as authorized in this document.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on (date) at (city), ... (state)

.....
(Signature)

AGENT SIGNATURE

As agent for (insert name of principal), I agree that a physician, health care facility or other provider of health care, acting in good faith, may rely on this power of attorney for health care and the signatures herein, and I understand that pursuant to NRS 162A.815, a physician, health care facility or other provider of health care that in good faith accepts an acknowledged power of attorney for health care is not subject to civil or criminal liability or discipline for unprofessional conduct for giving effect to a declaration contained within the power of attorney for health care or for following the direction of an agent named in the power of attorney for health care.

I also agree that:

1. I have a duty to act in a manner consistent with the desires of (insert name of principal) as stated in this document or otherwise made known by (insert name of principal), or if his or her desires are unknown, to act in his or her best interest.

2. If (insert name of principal) revokes this power of attorney at any time, either verbally or in writing, I have a duty to inform any persons who may rely on this document, including, without limitation, treating physicians, hospital staff or other providers of health care, that I no longer have the authorities described in this document.

3. The provisions of NRS 162A.840 prohibit me from being named as an agent to make health care decisions in this document if I am a provider of health care, an employee of the principal's provider of

health care or an operator or employee of a health care facility caring for the principal, unless I am the spouse, legal guardian or next of kin of the principal.

4. The provisions of NRS 162A.850 prohibit me from consenting to the following types of care or treatments on behalf of the principal, including, without limitation:

(a) Commitment or placement of the principal in a facility for treatment of mental illness;

(b) Convulsive treatment;

(c) Psychosurgery;

(d) Sterilization;

(e) Abortion;

(f) Aversive intervention, as it is defined in NRS 449.766;

(g) Experimental medical, biomedical or behavioral treatment, or participation in any medical, biomedical or behavioral research program; or

(h) Any other care or treatment to which the principal prohibits the agent from consenting in this document.

5. End-of-life decisions must be made according to the wishes of (insert name of principal), as designated in the attached addendum. If his or her wishes are not known, such decisions must be made in consultation with the principal's treating physicians.

Signature: Residence Address:

Print Name:

Date:

Relationship to principal.....

Length of relationship to principal:

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO YOU KNOW AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }

}ss.

County of}

On this..... day of....., in the year...., before me, ... (here insert name of notary public) personally appeared..... (here insert

name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL

.....
(Signature)

STATEMENT OF WITNESSES

(If you choose to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. The following people cannot be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.

Signature: Residence Address:
Print Name:
Date:

Signature: Residence Address:
Print Name:
Date:

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature:
Signature:

Names: Address:
 Print Name:
 Date:

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care.

2. The form for end-of-life decisions of a power of attorney for health care for an adult with an intellectual disability may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:

END-OF-LIFE DECISIONS ADDENDUM
STATEMENT OF DESIRES

(You can, but are not required to, state what you want to happen if you get very sick and are not likely to get well. You do not have to complete this form, but if you do, your agent must do as you ask if you cannot speak for yourself.)

..... (Insert name of agent) might have to decide, if you get very sick, whether to continue with your medicine or to stop your medicine, even if it means you might not live. (Insert name of agent) will talk to you to find out what you want to do, and will follow your wishes.

If you are not able to talk to (insert name of agent), you can help him or her make these decisions for you by letting your agent know what you want.

Here are your choices. Please circle yes or no to each of the following statements and sign your name below:

1. I want to take all the medicine and receive any treatment I can to keep me alive regardless of how the medicine or treatment makes me feel. YES NO

2. I do not want to take medicine or receive treatment if my doctors think that the medicine or treatment will not help me. YES NO

3. I do not want to take medicine or receive treatment if I am very sick and suffering and the medicine or treatment will not help me get better. YES NO

4. I want to get food and water even if I do not want to take medicine or

receive treatment. YES NO

**(YOU MUST DATE AND SIGN THIS END-OF-LIFE
DECISIONS ADDENDUM)**

I sign my name to this End-of-Life Decisions Addendum on
(date) at (city), ... (state)

.....
(Signature)

**(THIS END-OF-LIFE DECISIONS ADDENDUM WILL NOT BE
VALID UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO
QUALIFIED WITNESSES WHO YOU KNOW AND WHO ARE
PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR
SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY
PUBLIC.)**

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the
statement of witnesses.)

State of Nevada }
 }ss.
County of }

On this..... day of....., in the year...., before me, ... (here
insert name of notary public) personally appeared..... (here insert
name of principal) personally known to me (or proved to me on the basis
of satisfactory evidence) to be the person whose name is subscribed to
this instrument, and acknowledged that he or she executed it. I declare
under penalty of perjury that the person whose name is ascribed to this
instrument appears to be of sound mind and under no duress, fraud or
undue influence.

NOTARY SEAL

.....
(Signature)

STATEMENT OF WITNESSES

(If you choose to use witnesses instead of having this document
notarized, you must use two qualified adult witnesses. The following
people cannot be used as a witness: (1) a person you designate as the
agent; (2) a provider of health care; (3) an employee of a provider of
health care; (4) the operator of a health care facility; or (5) an employee
of an operator of a health care facility. At least one of the witnesses must
make the additional declaration set out following the place where the
witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this End-of-Life Decisions Addendum in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by the power of attorney for health care and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.

<u>Signature:</u>	<u>Residence Address:</u>
<u>Print Name:</u>	<u>.....</u>
<u>Date:</u>	<u>.....</u>
<u>Signature:</u>	<u>Residence Address:</u>
<u>Print Name:</u>	<u>.....</u>
<u>Date:</u>	<u>.....</u>

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

<u>Signature:</u>	
<u>Signature:</u>	
<u>Names:</u>	<u>Address:</u>
<u>Print Name:</u>	<u>.....</u>
<u>Date:</u>	

COPIES: You should retain an executed copy of this document and give one to your agent. The End-of-Life Decisions Addendum should be available so a copy may be given to your providers of health care.

Sec. 4. NRS 162A.700 is hereby amended to read as follows:

162A.700 NRS 162A.700 to ~~162A.860,~~ **162A.850**, inclusive, **and section 2 of this act** apply to any power of attorney containing the authority to make health care decisions.

Sec. 5. NRS 162A.710 is hereby amended to read as follows:

162A.710 As used in NRS 162A.700 to 162A.860, inclusive, **and sections 2 and 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 162A.720 to 162A.780, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 6. NRS 162A.860 is hereby amended to read as follows:

162A.860 ~~[The]~~ **Except as otherwise provided in section 3 of this act, the** form of a power of attorney for health care may be substantially in the

following form, and must be witnessed or executed in the same manner as the following form:

DURABLE POWER OF ATTORNEY
FOR HEALTH CARE DECISIONS

WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1. THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL OF CONSENT OR WITHDRAWAL OF CONSENT TO ANY CARE, TREATMENT, SERVICE OR PROCEDURE TO MAINTAIN, DIAGNOSE OR TREAT A PHYSICAL OR MENTAL CONDITION. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.

2. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

3. EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE THE POWER TO CONSENT TO YOUR DOCTOR NOT GIVING TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP YOU ALIVE.

4. UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

5. NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO

YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

6. YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

7. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, HOSPITAL OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

8. THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

9. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

10. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. DESIGNATION OF HEALTH CARE AGENT.

I, ...
(insert your name) do hereby designate and appoint:

Name:

Address:

Telephone Number:

as my agent to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your agent to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your agent: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

By this document I intend to create a durable power of attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED.

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the agent named above full power and authority: to make health care decisions for me before or after my death, including consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; to execute on my behalf any releases or other documents that may be required to obtain medical care and/or medical and hospital records, EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

4. SPECIAL PROVISIONS AND LIMITATIONS.

(Your agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization or abortion. If there are any other types of treatment or placement that you do not want your agent's authority to give consent for or other restrictions you wish to place on his or her agent's authority, you should list them in the space below. If you do not write any limitations, your agent will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.) In exercising the authority under this durable power of attorney for health care, the authority of my agent is subject to the following special provisions and limitations:

.....

5. DURATION.

I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE)

I wish to have this power of attorney end on the following date: ----

6. STATEMENT OF DESIRES.

(With respect to decisions to withhold or withdraw life-sustaining treatment, your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)

(If the statement
reflects your desires,
initial the box next to
the statement.)

1. I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures.

[.....]

2. If I am in a coma which my doctors have reasonably concluded is irreversible, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initialed.)

[.....]

3. If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initialed.)

[.....]

4. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other

treatment is withheld. [.....]

5. I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My agent is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life. [.....]

(If you wish to change your answer, you may do so by drawing an “X” through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires:

.....

7. DESIGNATION OF ALTERNATE AGENT.

(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same health care decisions as the agent designated in paragraph 1, page 2, in the event that he or she is unable or unwilling to act as your agent. Also, if the agent designated in paragraph 1 is your spouse, his or her designation as your agent is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my agent is unable to make health care decisions for me, then I designate the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A. First Alternative Agent

Name:
 Address:
 Telephone Number:

B. Second Alternative Agent

Name:
 Address:
 Telephone Number:

8. PRIOR DESIGNATIONS REVOKED.

I revoke any prior durable power of attorney for health care.

9. WAIVER OF CONFLICT OF INTEREST.

If my designated agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

10. CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my agent or a third party, then my agent is authorized to commence an action for declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

11. NOMINATION OF GUARDIAN.

If, after execution of this Durable Power of Attorney for Health Care, incompetency proceedings are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

12. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information by any government agency, medical provider, business, creditor or third party who may have information pertaining to my health care, to my agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on
..... (date) at (city), ... (state)

.....
(Signature)

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF
NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }
 }ss.
 County of}

On this..... day of....., in the year..., before me,..... (here insert name of notary public) personally appeared..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL
 (Signature of Notary Public)

STATEMENT OF WITNESSES

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a ~~community~~ **health** care facility or an employee of an operator of a health care facility.

Signature:	Residence Address:
Print Name:	
Date:	
Signature:	Residence Address:
Print Name:	
Date:	

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature:

Signature:

Names: Address:

Print Name:

Date:

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care.

Sec. 7. This act becomes effective upon passage and approval.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 3:31 p.m.

ASSEMBLY IN SESSION

At 3:34 p.m.

Mr. Speaker presiding.

Quorum present.

Assembly Bill No. 130.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 233.

AN ACT relating to estates; revising provisions authorizing the summary administration of the estate of a decedent; revising provisions concerning the distribution or transfer of assets from certain small estates of decedents; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs wills and estates of deceased persons. (Title 12 of NRS) Under existing law, a court is authorized to enter an order for the summary administration of an estate if the court deems summary administration advisable and the gross value of the estate does not exceed \$200,000 after deducting any encumbrances. (NRS 145.040) **Sections 1 and 2** of this bill increase that amount to ~~to \$250,000.~~ **\$300,000.**

~~[Existing law provides, under certain circumstances, for the setting aside of small estates that do not exceed a gross value of \$100,000, after deducting any encumbrances, for distribution to certain survivors of decedents or other claimants without requiring the administration of such estates. (NRS 146.070) Section 3 of this bill increases that amount to \$150,000.]~~

Existing law provides, under certain circumstances, for the transfer of assets from the estate of a decedent to certain claimants pursuant to an affidavit showing the right to receive the assets without the issuance of a letter of administration or, if applicable, the probate of a will if the gross value of the estate does not exceed \$20,000. (NRS 146.080) **Section 4 of this bill : (1) increases that amount to \$100,000, if the claimant is the surviving spouse of the decedent and to \$25,000 for any other claimant; and (2) excludes the value of any motor vehicles registered to the decedent from the determination of whether the gross value of the estate exceeds these amounts. Section 4 also requires the affidavit required for such transfer of assets to include a declaration that the claimant has no knowledge of any existing claims for personal injury or tort damages against the decedent. Finally, section 4 requires a governmental agency that issues certificates of title, ownership or registration to personal property to accept an affidavit containing the required information, regardless of the form of the affidavit.**

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

Section 1. NRS 145.040 is hereby amended to read as follows:

145.040 If it is made to appear to the court that the gross value of the estate, after deducting any encumbrances, does not exceed ~~[\$200,000, \$250,000,]~~ \$300,000, the court may, if deemed advisable considering the nature, character and obligations of the estate, enter an order for a summary administration of the estate.

Sec. 2. NRS 145.110 is hereby amended to read as follows:

145.110 If at any time after the entry of an order for the summary administration of an estate it appears that the gross value of the estate, after deducting any encumbrances, exceeds ~~[\$200,000 \$250,000]~~ \$300,000 as of the death of the decedent, the personal representative shall petition the court for an order revoking summary administration. The court may, if deemed advisable considering the nature, character and obligations of the estate, provide in its order revoking summary administration that regular administration of the estate may proceed unabated upon providing such portions of the regular proceedings and notices as were dispensed with by the order for summary administration.

Sec. 3. ~~[NRS 146.070 is hereby amended to read as follows:~~

~~146.070 1. If a person dies leaving an estate the gross value of which, after deducting any encumbrances, does not exceed [\$100,000,] \$150,000, and there is a surviving spouse or minor child or minor children of the decedent,~~

~~the estate must not be administered upon, but the whole estate, after directing such payments as may be deemed just, must be, by an order for that purpose, assigned and set apart for the support of the surviving spouse or minor child or minor children, or for the support of the minor child or minor children, if there is no surviving spouse. Even if there is a surviving spouse, the court may, after directing such payments, set aside the whole of the estate to the minor child or minor children, if it is in their best interests.~~

~~2. If there is no surviving spouse or minor child of the decedent and the gross value of a decedent's estate, after deducting any encumbrances, does not exceed ~~[\$100,000,] \$150,000~~, upon good cause shown, the court shall order that the estate not be administered upon, but the whole estate be assigned and set apart in the following order:~~

~~—(a) To the payment of funeral expenses, expenses of last illness, money owed to the Department of Health and Human Services as a result of payment of benefits for Medicaid and creditors, if there are any; and~~

~~—(b) Any balance remaining to the claimant or claimants entitled thereto pursuant to a valid will of the decedent, and if there is no valid will, pursuant to intestate succession.~~

~~3. Proceedings taken under this section, whether or not the decedent left a valid will, must not begin until at least 30 days after the death of the decedent and must be originated by a petition containing:~~

~~—(a) A specific description of all the decedent's property.~~

~~—(b) A list of all the liens and mortgages of record at the date of the decedent's death.~~

~~—(c) An estimate of the value of the property.~~

~~—(d) A statement of the debts of the decedent so far as known to the petitioner.~~

~~—(e) The names and residences of the heirs and devisees of the decedent and the age of any who is a minor and the relationship of the heirs and devisees to the decedent, so far as known to the petitioner.~~

~~4. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition and hearing in the manner provided in NRS 155.010 to the decedent's heirs and devisees and to the Director of the Department of Health and Human Services. If a complete copy of the petition is not enclosed with the notice, the notice must include a statement setting forth to whom the estate is being set aside.~~

~~5. No court or clerk's fees may be charged for the filing of any petition in, or order of court thereon, or for any certified copy of the petition or order in an estate not exceeding \$2,500 in value.~~

~~6. If the court finds that the gross value of the estate, less encumbrances, does not exceed the sum of ~~[\$100,000,] \$150,000~~, the court may direct that the estate be distributed to the father or mother of a minor heir or devisee, with or without the filing of any bond, or to a custodian under chapter 167 of NRS, or may require that a general guardian be appointed and that the estate be distributed to the guardian, with or without bond, as in the discretion of the~~

court is deemed to be in the best interests of the minor. The court may direct the manner in which the money may be used for the benefit of the minor.]
(Deleted by amendment.)

Sec. 4. NRS 146.080 is hereby amended to read as follows:

146.080 1. If a decedent leaves no real property, nor interest therein, nor mortgage or lien thereon, in this State, and the gross value of the decedent's property in this State, over and above any amounts due to the decedent for services in the Armed Forces of the United States, ~~or~~ **and the value of any motor vehicles registered to the decedent,** does not exceed ~~[\$20,000, \$100,000,]~~ **the applicable amount,** a person who has a right to succeed to the property of the decedent pursuant to the laws of succession for a decedent who died intestate or pursuant to the valid will of a decedent who died testate, on behalf of all persons entitled to succeed to the property claimed, or the Director of the Department of Health and Human Services or public administrator on behalf of the State or others entitled to the property, may, 40 days after the death of the decedent, without procuring letters of administration or awaiting the probate of the will, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness or right transferred to the claimant upon furnishing the person, representative, corporation, officer or body owing the money, having custody of the property or acting as registrar or transfer agent of the evidences of interest, indebtedness or right, with an affidavit showing the right of the affiant or affiants to receive the money or property or to have the evidence transferred.

2. An affidavit made pursuant to this section must state:

(a) The affiant's name and address, and that the affiant is entitled by law to succeed to the property claimed;

(b) The date and place of death of the decedent;

(c) That the gross value of the decedent's property in this State, except amounts due the decedent for services in the Armed Forces of the United States ~~or~~ **or the value of any motor vehicles registered to the decedent,** does not exceed ~~[\$20,000, \$100,000,]~~ **the applicable amount,** and that the property does not include any real property nor interest therein, nor mortgage or lien thereon;

(d) That at least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the certificate of death of the decedent attached to the affidavit;

(e) That no petition for the appointment of a personal representative is pending or has been granted in any jurisdiction;

(f) That all debts of the decedent, including funeral and burial expenses, and money owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid, have been paid or provided for;

(g) A description of the personal property and the portion claimed;

(h) That the affiant has given written notice, by personal service or by certified mail, identifying the affiant's claim and describing the property claimed, to every person whose right to succeed to the decedent's property is

equal or superior to that of the affiant, and that at least 14 days have elapsed since the notice was served or mailed;

(i) That the affiant is personally entitled, or the Department of Health and Human Services is entitled, to full payment or delivery of the property claimed or is entitled to payment or delivery on behalf of and with the written authority of all other successors who have an interest in the property; ~~and~~

(j) **That the affiant has no knowledge of any existing claims for personal injury or tort damages against the decedent; and**

(k) That the affiant acknowledges an understanding that filing a false affidavit constitutes a felony in this State.

3. If the affiant:

(a) Submits an affidavit which does not meet the requirements of subsection 2 or which contains statements which are not entirely true, any money or property the affiant receives is subject to all debts of the decedent.

(b) Fails to give notice to other successors as required by subsection 2, any money or property the affiant receives is held by the affiant in trust for all other successors who have an interest in the property.

4. A person who receives an affidavit containing the information required by subsection 2 is entitled to rely upon that information, and if the person relies in good faith, the person is immune from civil liability for actions based on that reliance.

5. Upon receiving proof of the death of the decedent and an affidavit containing the information required by this section:

(a) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to succeed to ownership of that security.

(b) A governmental agency required to issue certificates of title, ownership or registration to personal property shall issue a new certificate of title, ownership or registration to the person claiming to succeed to ownership of the property. **The governmental agency may not refuse to accept an affidavit containing the information required by this section, regardless of the form of the affidavit.**

6. If any property of the estate not exceeding ~~(\$20,000-\$100,000)~~ **the applicable amount** is located in a state which requires an order of a court for the transfer of the property, or if the estate consists of stocks or bonds which must be transferred by an agent outside this State, any person qualified pursuant to the provisions of subsection 1 to have the stocks or bonds or other property transferred may do so by obtaining a court order directing the transfer. The person desiring the transfer must file a petition, which may be ex parte, containing:

(a) A specific description of all the property of the decedent.

(b) A list of all the liens and mortgages of record at the date of the decedent's death.

(c) An estimate of the value of the property of the decedent.

(d) The names, ages of any minors and residences of the decedent's heirs and devisees.

(e) A request for the court to issue an order directing the transfer of the stocks or bonds or other property if the court finds the gross value of the estate does not exceed ~~[\$20,000-\$100,000]~~ **the applicable amount.**

(f) An attached copy of the executed affidavit made pursuant to subsection 2.

➔ If the court finds that the gross value of the estate does not exceed ~~[\$20,000-\$100,000]~~ **the applicable amount** and the person requesting the transfer is entitled to it, the court may enter an order directing the transfer.

7. As used in this section, "applicable amount" means:

(a) If the claimant is the surviving spouse of the decedent, \$100,000.

(b) For any other claimant, \$25,000.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 142.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 420.

AN ACT relating to wildlife; **making various changes relating to violations of provisions relating to wildlife;** eliminating, under certain circumstances, the authority of the Board of Wildlife Commissioners and the Department of Wildlife to suspend or revoke a license, tag, permit, certificate or other document or privilege relating to wildlife; authorizing a court, under certain circumstances, to order the suspension or revocation of a license, tag, permit, certificate or other document or privilege relating to wildlife; ~~eliminating the authority of the Commission to establish a system of assessing demerit points for wildlife convictions;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of Wildlife Commissioners to establish a system of assessing demerit points for a person who is convicted of violating certain laws and regulations in this State relating to wildlife. (NRS 501.1812-501.1818) Pursuant to the system, a person accumulates demerit points if the person is convicted of violating certain provisions of law. If a person accumulates 12 demerit points, the Department of Wildlife is required to suspend or revoke any license, permit or privilege that the Department has issued to the person. With limited exception, a license, permit or privilege may not be suspended for more than 3 years. (NRS 501.1816) In addition to the authority of the Department to suspend or revoke a license pursuant to the demerit system, existing law authorizes a court to require the surrender of a license issued by the Department to a person if the person is found guilty of

violating any provision of title 45 of NRS. (NRS 501.387) ~~Section 1.5 of this bill eliminates the authority of the Commission to establish a [system] schedule of demerit points, [thereby eliminating the system.] and instead requires that the Department assess demerit points pursuant to the schedule of demerit points set forth in section 1.1 of this bill.~~ Section 5 of this bill provides that, except as otherwise provided by specific statute, a court may not suspend or revoke a license for a period of more than 3 years.

~~[Existing law requires the Commission to: (1) establish policies for the revocation of licenses issued pursuant to title 45 of NRS to any person who is convicted of a violation of a law relating to wildlife; and (2) adopt regulations governing the revocation of a permit required to develop or maintain certain artificial or artificially created bodies of water. (NRS 501.181) Section 1 of this bill provides that no such policy or regulation may authorize the Commission or the Department to suspend or revoke such a license or permit unless a court orders the suspension or revocation.]~~

Existing law authorizes, under certain circumstances, the Commission or the Department to revoke or suspend a license, tag, permit, certificate or other document or privilege issued to a person by the Department. (NRS 501.3855, 501.3865, 501.388, 502.370, 503.185, 503.310, 504.380, 504.390, 504.395) **Sections 2-4 and 6-12 of this bill eliminate [such] the revocation and suspension authority of the Commission and the Department under those circumstances and instead grant [the] that authority to a court of competent jurisdiction. Section 2 also revises the penalty for the unlawful killing or possession of a mountain lion. (NRS 501.376)**

Section 1.9 of this bill retains the authority of the Department under existing law to suspend or revoke a license, permit or privilege pursuant to the demerit system.

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

Section 1. [NRS 501.181 is hereby amended to read as follows:
~~501.181 The Commission shall:~~
~~1. Establish broad policies for:~~
~~(a) The protection, propagation, restoration, transplanting, introduction and management of wildlife in this State.~~
~~(b) The promotion of the safety of persons using or property used in the operation of vessels on the waters of this State.~~
~~(c) The promotion of uniformity of laws relating to policy matters.~~
~~2. Guide the Department in its administration and enforcement of the provisions of this title and of chapter 488 of NRS by the establishment of such policies.~~
~~3. Establish policies for areas of interest including:~~
~~(a) The management of big and small game mammals, upland and migratory game birds, fur-bearing mammals, game fish, and protected and unprotected mammals, birds, fish, reptiles and amphibians.~~

- ~~—(b) The control of wildlife depredations.~~
- ~~—(c) The acquisition of lands, water rights and easements and other property for the management, propagation, protection and restoration of wildlife.~~
- ~~—(d) The entry, access to, and occupancy and use of such property, including leases of grazing rights, sales of agricultural products and requests by the Director to the State Land Registrar for the sale of timber if the sale does not interfere with the use of the property on which the timber is located for wildlife management or for hunting or fishing thereon.~~
- ~~—(e) The control of nonresident hunters.~~
- ~~—(f) The introduction, transplanting or exporting of wildlife.~~
- ~~—(g) Cooperation with federal, state and local agencies on wildlife and boating programs.~~
- ~~—(h) The revocation of licenses issued pursuant to this title to any person who is convicted of a violation of any provision of this title or any regulation adopted pursuant thereto. **No such policy may authorize the Commission or the Department to suspend or revoke a license issued pursuant to this title unless a court orders the suspension or revocation.**~~
- ~~—4. Establish regulations necessary to carry out the provisions of this title and of chapter 488 of NRS, including:~~
 - ~~—(a) Seasons for hunting game mammals and game birds, for hunting or trapping fur bearing mammals and for fishing, the daily and possession limits, the manner and means of taking wildlife, including, but not limited to, the sex, size or other physical differentiation for each species, and, when necessary for management purposes, the emergency closing or extending of a season, reducing or increasing of the bag or possession limits on a species, or the closing of any area to hunting, fishing or trapping. The regulations must be established after first considering the recommendations of the Department, the county advisory boards to manage wildlife and others who wish to present their views at an open meeting. Any regulations relating to the closure of a season must be based upon scientific data concerning the management of wildlife. The data upon which the regulations are based must be collected or developed by the Department.~~
 - ~~—(b) The manner of using, attaching, filling out, punching, inspecting, validating or reporting tags.~~
 - ~~—(c) The delineation of game management units embracing contiguous territory located in more than one county, irrespective of county boundary lines.~~
 - ~~—(d) The number of licenses issued for big game and, if necessary, other game species.~~
- ~~—5. Adopt regulations requiring the Department to make public, before official delivery, its proposed responses to any requests by federal agencies for its comment on drafts of statements concerning the environmental effect of proposed actions or regulations affecting public lands.~~
- ~~—6. Adopt regulations:~~

~~— (a) Governing the provisions of the permit required by NRS 502.390 and for the issuance, renewal and revocation of such a permit. **No such regulation may authorize the Commission or the Department to revoke such a permit unless a court orders the revocation.**~~

~~— (b) Establishing the method for determining the amount of an assessment, and the time and manner of payment, necessary for the collection of the assessment required by NRS 502.390.~~

~~— 7. Designate those portions of wildlife management areas for big game mammals that are of special concern for the regulation of the importation, possession and propagation of alternative livestock pursuant to NRS 576.129.~~

~~— 8. Adopt regulations governing the trapping of fur bearing mammals in a residential area of a county whose population is 100,000 or more. **(Deleted by amendment.)**~~

Sec. 1.1. Chapter 501 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall only assess demerit points as provided in NRS 501.1814 pursuant to the following schedule:

HUNTING AND TAKING

<u>Classification of Violations</u>	<u>NRS Section</u>	<u>Demerits</u>
<u>Unlawfully shooting at a game mammal or game bird from an aircraft, helicopter or motor-driven vehicle or using such a vehicle to molest, rally, stir up or drive game mammals or game birds</u>	<u>503.010</u>	<u>6</u>
<u>Spotting or locating game mammals or game birds from an aircraft or helicopter and communicating that information to a person on the ground for the purpose of hunting</u>	<u>503.010</u>	<u>3</u>
<u>Unlawfully using information obtained in violation of subsection 3 of NRS 503.010 to hunt or kill game mammals or game birds</u>	<u>503.010</u>	<u>3</u>
<u>Unlawfully using a helicopter to transport game, hunters or hunting equipment</u>	<u>503.010</u>	<u>3</u>
<u>Unlawfully killing or attempting to kill birds or animals from an aircraft.....</u>	<u>503.005</u>	<u>6</u>

<u>Unlawfully using an aircraft, balloon or satellite to locate or observe big game for the purpose of hunting</u>	<u>501.385</u>	<u>6</u>
<u>Hunting or taking an endangered species without a special permit.....</u>	<u>503.585</u>	<u>12</u>
<u>Unlawfully killing, destroying, wounding, trapping or injuring bald eagles or golden eagles.....</u>	<u>503.610</u>	<u>12</u>
<u>Unlawfully taking bald eagles or golden eagles</u>	<u>503.620</u>	<u>12</u>
<u>Taking twice the legal limit or more of big game mammals</u>	<u>501.385</u>	<u>12</u>
<u>Hunting or taking a threatened Species</u>	<u>501.385</u>	<u>9</u>
<u>Unlawfully killing a fur-bearing mammal during the closed season.....</u>	<u>503.440</u>	<u>9</u>
<u>Unlawfully hunting migratory waterfowl by aid of baiting.....</u>	<u>501.385</u>	<u>3</u>
<u>Hunting big game mammals during the closed season</u>	<u>503.090</u>	<u>6</u>
<u>Hunting fur-bearing mammals during the closed season</u>	<u>501.015</u>	<u>6</u>
<u>Hunting big game mammals in closed Areas.....</u>	<u>501.385</u>	<u>6</u>
<u>Hunting fur-bearing mammals in closed areas</u>	<u>501.385</u>	<u>6</u>
<u>Unlawfully hunting in a privately owned wildlife management area</u>	<u>504.140</u>	<u>6</u>
<u>Unlawfully hunting in a state-owned wildlife management area.....</u>	<u>504.143</u>	<u>6</u>
<u>Hunting big game mammals or migratory waterfowl during prohibited hours</u>	<u>503.140</u>	<u>6</u>
<u>Unlawfully hunting game birds or game mammals with the aid of artificial light.....</u>	<u>503.150</u>	<u>6</u>
<u>Hunting or taking a sensitive species</u>	<u>501.385</u>	<u>6</u>
<u>Hunting, trapping, possessing or selling birds of prey or raptors without a permit</u>	<u>503.582</u>	<u>6</u>
<u>Hunting alternative livestock.....</u>	<u>503.242</u>	<u>6</u>
<u>Taking a game mammal of a prohibited age or with prohibited physical characteristics</u>	<u>501.385</u>	<u>6</u>

UNLAWFUL POSSESSION

	<u>NRS</u>	
<u>Classification of Violations</u>	<u>Section</u>	<u>Demerits</u>
<u>Unlawfully possessing live wildlife</u>		
<u>that is classified as prohibited</u>	<u>504.295</u>	<u>12</u>
<u>Unlawfully possessing big game</u>		
<u>mammals during the closed season</u>	<u>503.030</u>	<u>9</u>
<u>Possessing a big game mammal or</u>		
<u>parts thereof without a tag</u>		
<u>attached thereto</u>	<u>502.150</u>	<u>9</u>
<u>Possessing twice the legal limit or</u>		
<u>more of game birds or game</u>		
<u>mammals, other than big game.....</u>	<u>501.385</u>	<u>9</u>
<u>Possessing twice the legal limit or</u>		
<u>more of game fish.....</u>	<u>501.385</u>	<u>9</u>
<u>Unlawfully possessing a fur-bearing</u>		
<u>mammal during the closed season.....</u>	<u>503.030</u>	<u>6</u>
<u>Possessing game birds or game</u>		
<u>mammals, other than big game,</u>		
<u>during the closed season</u>	<u>503.030</u>	<u>6</u>
<u>Possessing fish during the closed</u>		
<u>Season.....</u>	<u>503.030</u>	<u>6</u>
<u>Possessing game birds or game</u>		
<u>mammals, other than big game, in</u>		
<u>excess of the legal limit but less</u>		
<u>than twice the legal limit.....</u>	<u>501.385</u>	<u>6</u>
<u>Possessing game fish in excess of the</u>		
<u>legal limit but less than twice the</u>		
<u>legal limit.....</u>	<u>501.385</u>	<u>6</u>
<u>Possessing a species that may not</u>		
<u>legally be possessed without a</u>		
<u>license or permit.....</u>	<u>501.385</u>	<u>6</u>

TAGS AND SEALS

	<u>NRS</u>	
<u>Classification of Violations</u>	<u>Section</u>	<u>Demerits</u>
<u>Hunting big game or wild turkey</u>		
<u>without a tag</u>	<u>502.130</u>	<u>9</u>
<u>Unlawfully transferring a tag to</u>		
<u>another person.....</u>	<u>502.140</u>	<u>9</u>
<u>Possessing or using a tag legally</u>		
<u>issued to another person</u>	<u>502.140</u>	<u>9</u>

<u>Obtaining tags in excess of the legal</u>		
<u>Limit.....</u>	502.140	9
<u>Possessing used tags or tags in excess</u>		
<u>of the legal limit.....</u>	502.150	9
<u>Unlawfully using a tag.....</u>	502.200	9
<u>Using a tag in an improper area.....</u>	502.160	6
<u>Failing to punch a tag properly.....</u>	502.160	6
<u>Failing to attach a tag to a big game</u>		
<u>mammal in the manner prescribed</u>		
<u>by regulation of the Commission</u>	502.160	3
<u>Hunting by a Native American off a</u>		
<u>Native American reservation</u>		
<u>without a tag</u>	502.280	6
<u>Possessing fur-bearing mammals,</u>		
<u>other than a bobcat, without a seal.....</u>	501.385	6
<u>Possessing the pelt of a bobcat</u>		
<u>without a seal.....</u>	501.385	3
<u>Possessing the hide of a mountain</u>		
<u>lion without a seal</u>	501.385	6
<u>Possessing the horns of a ram</u>		
<u>bighorn sheep without a seal or</u>		
<u>brand.....</u>	501.385	6

PERMITS

<u>Classification of Violations</u>	<u>NRS</u> <u>Section</u>	<u>Demerits</u>
<u>Unlawfully importing or transporting</u>		
<u>a prohibited species of wildlife</u>		
<u>without a permit or license.....</u>	503.597	12
<u>Collecting unprotected wildlife for</u>		
<u>commercial purposes without a</u>		
<u>permit.....</u>	501.385	12
<u>Collecting live bait fish or live aquatic</u>		
<u>bait for commercial purposes</u>		
<u>without a permit</u>	501.385	12
<u>Collecting unprotected fish for</u>		
<u>commercial purposes without a</u>		
<u>permit.....</u>	501.385	12
<u>Selling live bait without a permit.....</u>	501.379	6
<u>Conducting a field trial without a</u>		
<u>Permit</u>	503.200	6
<u>Conducting a dredging operation</u>		
<u>without a permit</u>	503.425	6
<u>Possessing a raptor without a permit</u>	503.582	6

<u>Furnishing false information to</u> <u>obtain a permit</u>	<u>502.060</u>	<u>6</u>

FISHING

	<u>NRS</u>	
<u>Classification of Violations</u>	<u>Section</u>	<u>Demerits</u>
<u>Fishing at a fish hatchery or other</u> <u>waters used for the purpose of</u> <u>rearing or growing fish</u>	<u>503.360</u>	<u>6</u>

MISCELLANEOUS FISH AND GAME

	<u>NRS</u>	
<u>Classification of Violations</u>	<u>Section</u>	<u>Demerits</u>
<u>Obstructing, hindering or otherwise</u> <u>interfering with an officer,</u> <u>employee or agent of the</u> <u>Department.....</u>	<u>501.385</u>	<u>12</u>
<u>Unlawfully selling big game</u> <u>Mammals</u>	<u>501.379</u>	<u>12</u>
<u>Unlawfully selling an endangered</u> <u>Species</u>	<u>501.379</u>	<u>12</u>
<u>Needless waste of big game mammals.....</u>	<u>503.050</u>	<u>12</u>
<u>Needless waste of game birds or game</u> <u>mammals, other than big game.....</u>	<u>503.050</u>	<u>9</u>
<u>Unlawfully selling a threatened</u> <u>Species</u>	<u>501.379</u>	<u>9</u>
<u>Unlawfully selling game other than</u> <u>big game mammals.....</u>	<u>501.379</u>	<u>6</u>
<u>Unlawfully selling a sensitive or</u> <u>protected species</u>	<u>501.379</u>	<u>6</u>
<u>Unlawfully selling game fish</u>	<u>501.381</u>	<u>6</u>
<u>Needless waste of game fish</u>	<u>503.050</u>	<u>6</u>
<u>Unlawfully carrying a loaded rifle or</u> <u>shotgun in a vehicle</u>	<u>503.165</u>	<u>6</u>
<u>Unlawfully discharging a firearm</u>	<u>503.175</u>	<u>6</u>
<u>Failing to retain the cape or scalp</u> <u>and any antlers or horns of</u> <u>wildlife</u>	<u>501.385</u>	<u>6</u>
<u>Destroying or mutilating signs of the</u> <u>Department.....</u>	<u>501.383</u>	<u>6</u>
<u>Polluting water</u>	<u>503.430</u>	<u>6</u>
<u>Removing, altering or tampering with</u> <u>a tag placed on wildlife or on</u>		

<u>seized equipment</u>	<u>501.377</u>	<u>6</u>
<u>Commercial taking of crayfish, except</u> <u>in accordance with a permit issued</u> <u>by the Department</u>	<u>501.385</u>	<u>6</u>
<u>Intentionally interfering with a</u> <u>person lawfully hunting or</u> <u>trapping</u>	<u>503.015</u>	<u>6</u>
<u>Hunting or trapping on private</u> <u>property without permission.....</u>	<u>503.240</u>	<u>6</u>
<u>Failing to make a reasonable effort to</u> <u>retrieve dead or crippled migratory</u> <u>waterfowl</u>	<u>501.385</u>	<u>3</u>

CATEGORY E FELONIES AND
GROSS MISDEMEANORS

<u>Classification of Violations</u>	<u>NRS</u> <u>Section</u>	<u>Demerits</u>
<u>Conviction of a felony for</u> <u>intentionally killing a big game</u> <u>mammal, including aiding and</u> <u>abetting a person in the</u> <u>commission of the killing</u>	<u>501.376</u>	<u>12</u>
<u>Conviction of a gross misdemeanor</u> <u>for intentionally killing a big game</u> <u>mammal, including aiding and</u> <u>abetting a person in the</u> <u>commission of the killing</u>	<u>501.376</u>	<u>12</u>
<u>Conviction of a gross misdemeanor</u> <u>for willfully possessing an</u> <u>unlawfully killed big game</u> <u>mammal</u>	<u>501.376</u>	<u>12</u>
<u>Acting as a master guide or subguide</u> <u>without a license.....</u>	<u>504.395</u>	<u>12</u>
<u>Furnishing false information to</u> <u>obtain a big game tag</u>	<u>502.060</u>	<u>12</u>

TRAPPING

<u>Classification of Violations</u>	<u>NRS</u> <u>Section</u>	<u>Demerits</u>
<u>Unlawfully capturing a raptor with a</u> <u>steel leghold trap placed, set or</u> <u>maintained within 30 feet of</u> <u>exposed bait</u>	<u>501.385</u>	<u>3</u>

<u>Trapping in a closed area</u>	<u>501.385</u>	<u>3</u>
<u>Unlawfully removing or disturbing a</u> <u>trap lawfully being used by</u> <u>another person.....</u>	<u>503.454</u>	<u>3</u>
<u>Trapping fur-bearing mammals</u> <u>during the closed season</u>	<u>503.440</u>	<u>6</u>
<u>Trapping birds of prey or raptors</u> <u>without a permit or by unlawful</u> <u>means.....</u>	<u>503.582</u>	<u>6</u>

LICENSES

<u>Classification of Violations</u>	<u>NRS</u> <u>Section</u>	<u>Demerits</u>
<u>Refusing to exhibit a license, wildlife,</u> <u>weapon, ammunition, device or</u> <u>apparatus</u>	<u>502.120</u>	<u>12</u>
<u>Hunting without having procured a</u> <u>License.....</u>	<u>502.010</u>	<u>6</u>
<u>Fishing without having procured a</u> <u>License.....</u>	<u>502.010</u>	<u>6</u>
<u>Hunting without a license in</u> <u>Possession.....</u>	<u>502.120</u>	<u>6</u>
<u>Fishing without a license in</u> <u>Possession.....</u>	<u>502.120</u>	<u>6</u>
<u>Furnishing false information to</u> <u>obtain a license.....</u>	<u>502.060</u>	<u>6</u>
<u>Furnishing of false information by a</u> <u>person serving in the Armed</u> <u>Forces of the United States to</u> <u>obtain a license.....</u>	<u>502.290</u>	<u>6</u>
<u>Unlawfully transferring a license to</u> <u>another person.....</u>	<u>502.100</u>	<u>6</u>
<u>Unlawfully using a license of another</u> <u>Person.....</u>	<u>502.100</u>	<u>6</u>
<u>Obtaining more than one license of</u> <u>each class.....</u>	<u>502.110</u>	<u>6</u>
<u>Altering a license</u>	<u>502.105</u>	<u>6</u>
<u>Practicing falconry without a license.....</u>	<u>503.583</u>	<u>6</u>
<u>Operating as a fur dealer without a</u> <u>License.....</u>	<u>505.010</u>	<u>6</u>
<u>Trapping without having procured a</u> <u>License.....</u>	<u>502.010</u>	<u>6</u>
<u>Taking fur-bearing mammals,</u> <u>trapping unprotected mammals or</u>		

<u><i>selling raw furs for profit without having procured a license</i></u>	503.454	6
<u><i>Trapping without a license in Possession</i></u>	502.120	6
<u><i>Hunting, fishing or trapping using a license that is invalid by reason of expiration or a false statement made to obtain the license</i></u>	502.060	3
<u><i>Operating a shooting preserve without a license</i></u>	504.310	6
<u><i>Performing taxidermal services without a license</i></u>	502.370	6
<u><i>Obtaining a hunting license without obtaining certification as a responsible hunter</i></u>	502.360	6

2. If a person is convicted of committing a wildlife violation that does not appear in the schedule set forth in subsection 1, the Department shall assess not more than 3 demerit points.

3. If a person is convicted of committing any four wildlife violations arising out of separate events within a 60-month period, the Department shall not assess more than an extra 12 demerit points.

Sec. 1.3. NRS 501.1812 is hereby amended to read as follows:

501.1812 As used in NRS 501.1812 to 501.1818, inclusive, **and section 1.1 of this act,** unless the context otherwise requires:

1. “License” means a license or tag issued by the Department for:
 - (a) Recreational hunting or fishing; or
 - (b) Taking fur-bearing mammals, trapping unprotected mammals or selling raw furs for profit.
2. “Permit” means a permit issued by the Department for recreational hunting or fishing.
3. “Wildlife conviction” means a conviction obtained in any court of competent jurisdiction in this State, including, without limitation, a conviction obtained upon a plea of nolo contendere or upon a forfeiture of bail not vacated in any such court, for a violation of:
 - (a) A provision of this title or any regulation adopted pursuant to this title other than a provision of NRS 502.370, 502.390, 503.185, 503.310 or 504.295 to 504.398, inclusive; or
 - (b) A provision of the Lacey Act Amendments of 1981, 16 U.S.C. §§ 3371 et seq., if the violation of that provision is based on a violation of a law or regulation of this State.

Sec. 1.5. NRS 501.1814 is hereby amended to read as follows:

501.1814 1. The Commission shall establish and the Department shall administer and enforce a system of assessing demerit points **pursuant to**

section 1.1 of this act for wildlife convictions. The system must be uniform in its operation.

2. Pursuant to the schedule of demerit points ~~established by regulation of the Commission~~ **set forth in section 1.1 of this act** for each wildlife conviction occurring within this State affecting any holder of a license, permit or privilege issued pursuant to this title, the Department shall assess demerit points for the 60-month period preceding a person's most recent wildlife conviction. Sixty months after the date of the conviction, the demerit points for that conviction must be deleted from the total demerit points accumulated by that person. The date of the conviction shall be deemed the date on which accumulated demerit points must be assessed. If a conviction of two or more wildlife violations committed at a single event is obtained, demerit points must be assessed for the offense having the greater number of demerit points.

Sec. 1.9. NRS 501.1816 is hereby amended to read as follows:

501.1816 1. **If a person who has accumulated 4 or more demerit points presents proof to the Department that he or she has successfully completed a course of instruction in the responsibilities of hunters approved by the Department, the Department shall deduct 4 demerit points from the person's record.**

2. If a person accumulates 9 or more demerit points, but less than 12, the Department shall notify the person of that fact by certified mail. If, after the Department mails the notice, the person presents proof to the Department that he or she has, after his or her most recent wildlife conviction, successfully completed a course of instruction in the responsibilities of hunters approved by the Department, the Department shall deduct 4 demerit points from the person's record.

3. A person may attend a course of instruction in the responsibilities of hunters only once in 60 months for the purpose of reducing his or her demerit points.

~~{2,}~~ **4.** If a person accumulates 12 or more demerit points before completing a course of instruction pursuant to subsection 1 ~~{1}~~ **or 2,** the Department shall suspend or revoke any license, permit or privilege issued to the person pursuant to this title.

~~{3,}~~ **5.** Not later than 60 days after the Department determines that a person has accumulated 12 demerit points, the Department shall notify the person by certified mail that the person's privileges will be suspended or revoked. Except as otherwise provided in subsection ~~{4,}~~ **6,** the Department shall suspend or revoke those privileges 30 days after it mails the notice.

~~{4,}~~ **6.** Any person who receives the notice required by subsection ~~{3}~~ **5** may submit to the Department a written request for a hearing before the Commission not later than 30 days after the receipt of the notice. If a written request for a hearing is received by the Department:

(a) The suspension or revocation of the license, permit or privilege is stayed until a determination is made by the Commission after the hearing.

(b) The hearing must be held within 60 days after the request is received.

~~{5.} 7.~~ The periods of suspension or revocation imposed pursuant to this section must run concurrently. Except as otherwise provided in this subsection, no license, permit or privilege may be suspended or revoked pursuant to this section for more than 3 years. ~~{The license, permit or privilege of a person who is convicted pursuant to NRS 501.376 of:~~

~~—(a) A gross misdemeanor may not be suspended or revoked for more than 5 years;~~

~~—(b) Except as otherwise provided in paragraph (c), a felony may not be suspended or revoked for more than 10 years; or~~

~~—(c) Two or more felonies, arising from separate events, must be permanently revoked.~~

~~6.} 8.~~ If the Department suspends or revokes a license, permit or privilege pursuant to this section, the period of suspension or revocation begins 30 days after notification pursuant to subsection ~~{2} 5~~ or a determination is made by the Commission pursuant to subsection ~~{4} 6~~. After a person's license, permit or privilege is suspended or revoked pursuant to this section, all demerit points accumulated by that person must be cancelled.

Sec. 1.95. NRS 501.1818 is hereby amended to read as follows:

501.1818 The Commission may adopt such regulations as are necessary to carry out the provisions of NRS 501.1812 to 501.1818, inclusive ~~{1}~~, **and section 1.1 of this act.**

Sec. 2. NRS 501.376 is hereby amended to read as follows:

501.376 1. Except as otherwise provided in this section, a person shall not intentionally kill or aid and abet another person to kill a bighorn sheep, mountain goat, elk, deer, pronghorn antelope, mountain lion or black bear:

(a) Outside of the prescribed season set by the Commission for the lawful hunting of that animal;

(b) Through the use of an aircraft or helicopter in violation of NRS 503.010;

(c) By a method other than the method prescribed on the tag issued by the Department for hunting that animal;

(d) Knowingly during a time other than:

(1) The time of day set by the Commission for hunting that animal pursuant to NRS 503.140; or

(2) If the Commission has not set such a time, between sunrise and sunset as determined pursuant to that section; or

(e) Without a valid tag issued by the Department for hunting that animal. A tag issued for hunting any animal specified in this subsection is not valid if knowingly used by a person:

(1) Other than the person specified on the tag;

(2) Outside of the management area or other area specified on the tag; or

(3) If the tag was obtained by a false or fraudulent representation.

2. The provisions of subsection 1 do not prohibit the killing of an animal specified in subsection 1 if:

(a) The killing of the animal is necessary to protect the life or property of any person in imminent danger of being attacked by the animal; or

(b) The animal killed was not the intended target of the person who killed the animal and the killing of the animal which was the intended target would not violate the provisions of subsection 1.

3. ~~4.~~ **Except as otherwise provided in subsection 4, a** person who violates the provisions of subsection 1 shall be punished for a category E felony as provided in NRS 193.130 or, if the court reduces the penalty pursuant to this subsection, for a gross misdemeanor. In determining whether to reduce the penalty, the court shall consider:

- (a) The nature of the offense;
- (b) The circumstances surrounding the offense;
- (c) The defendant's understanding and appreciation of the gravity of the offense;
- (d) The attitude of the defendant towards the offense; and
- (e) The general objectives of sentencing.

4. **A person who kills or aids and abets another person to kill a mountain lion in violation of the provisions of subsection 1 is guilty of a misdemeanor.**

5. A person shall not willfully possess any animal specified in subsection 1 if the person knows the animal was killed in violation of subsection 1 or the circumstances should have caused a reasonable person to know that the animal was killed in violation of subsection 1.

~~5.~~ 6. A person who violates the provisions of subsection ~~4~~ 5 is guilty of ~~(a)~~ :

(a) A misdemeanor if the willful possession is of a mountain lion; and

(b) A gross misdemeanor.

~~6.~~ **if the willful possession is of any animal specified in subsection 1 other than a mountain lion.**

7. **In addition to any other penalty, if a person is convicted pursuant to this section of:**

(a) A gross misdemeanor, the court may order the suspension or revocation of any license, tag, permit, certificate or other document or privilege issued to the person pursuant to this title for a period of not more than 5 years.

(b) A felony, the court may order the suspension or revocation of any license, tag, permit, certificate or other document or privilege issued to the person pursuant to this title for a period of not more than 10 years.

(c) Two or more felonies arising from separate events, the court shall order the permanent revocation of all licenses, tags, permits, certificates or other documents or privileges issued to the person pursuant to this title.

Sec. 3. NRS 501.3855 is hereby amended to read as follows:

501.3855 1. In addition to the penalties provided for the violation of any of the provisions of this title, every person who:

(a) Unlawfully kills or possesses a trophy big game mammal is liable for a civil penalty of not less than \$5,000 nor more than \$30,000; or

(b) Except as otherwise provided in paragraph (a), unlawfully kills or possesses a big game mammal, moose, bobcat, swan or eagle is liable for a civil penalty of not less than \$250 but less than \$5,000.

2. For the unlawful killing or possession of fish or wildlife not included in subsection 1, a person is liable for a civil penalty of not less than \$25 nor more than \$1,000.

3. For hunting, fishing or trapping without a valid license, tag or permit, a person is liable for a civil penalty of not less than \$50 nor more than the amount of the fee for the license, tag or permit required for the activity in which the person engaged.

4. Every court, before whom a defendant is convicted of unlawfully killing or possessing any wildlife, shall order the defendant to pay the civil penalty in the amount stated in this section for each mammal, bird or fish unlawfully killed or possessed. The court shall fix the manner and time of payment.

5. The Department may attempt to collect all penalties and installments that are in default in any manner provided by law for the enforcement of a judgment.

6. If a person who is ordered to pay a civil penalty pursuant to this section fails to do so within 90 days after the date set forth in the order, the **court may order the** Department ~~may~~ **to** suspend ~~it~~ **or** revoke ~~it, or refuse~~ **and not** to issue or renew any license, tag, permit, certificate or other document or privilege otherwise available to the person pursuant to this title or chapter 488 of NRS.

7. Each court that receives money pursuant to the provisions of this section shall forthwith remit the money to the Department which shall deposit the money with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund.

8. As used in this section, “trophy big game mammal” means a mule deer with an outside antler measurement of at least 24 inches, a bighorn sheep of any species with at least one horn exceeding a half curl, a Rocky Mountain elk with at least six antler points on one antler, a pronghorn antelope with at least one horn which is more than 14 inches in length, a mountain goat or a black bear. As used in this subsection:

(a) “Antler” means any bony growth originating from the pedicle portion of the skull of a big game mammal that is annually cast and regenerated as part of the annual life cycle of the big game mammal.

(b) “Antler point” means a projection which is at least 1 inch in length with the length exceeding the width of its base, excluding the first point on the main beam commonly known as the eye guard on mule deer.

(c) “Horn exceeding a half curl” means a horn tip that has grown at least through 180 degrees of a circle determined by establishing a parallel reference line from the base of the horn and measuring the horn tip to determine whether the horn tip has grown at least to the projection of the reference line.

(d) “Outside antler measurement” means the perpendicular measurement at right angles to the center line of the skull of a deer at the widest point between the main antler beams or the antler points off the main antler beams.

Sec. 4. NRS 501.3865 is hereby amended to read as follows:

501.3865 1. If a person who holds:

(a) A license, tag or permit issued by the Department to engage in any activity authorized or regulated by this title or by a regulation adopted pursuant thereto; or

(b) A certificate of number issued by the Department,
 ↪ violates a written promise to appear pursuant to a citation that was prepared manually or electronically for a violation of a provision of this title, chapter 488 of NRS or any regulation adopted pursuant thereto, the clerk of the court shall immediately notify the Department on a form approved by the Department.

2. Upon receipt of notice from a court in this State of a failure to appear, the Department shall notify the person by certified mail that the person’s license, tag, permit or certificate of number is subject to suspension **by order of the court** and allow the person 30 days after the date of mailing the notice to:

(a) Appear in court and obtain a dismissal of the citation or complaint as provided by law; **or**

(b) Appear in court and, if permitted by the court, make an arrangement acceptable to the court to satisfy a judgment of conviction . ~~[- or~~

~~—(c) Make a written request to the Department for a hearing.]~~

3. If ~~[notified by a court within 30 days after the notice of a failure to appear that a person has been allowed to make]~~ , **within the time provided by subsection 2, the person:**

(a) **Fails to appear in court;**

(b) **Appears in court but is unable to obtain a dismissal of the citation or complaint as provided by law and does not immediately satisfy a judgment of conviction; or**

(c) **Appears in court and makes** an arrangement for the satisfaction of a judgment of conviction ~~[- the Department shall remove the suspension from the record of the person. If the person]~~ **but** subsequently defaults on his or her arrangement with the court,

↪ the court shall ~~[notify the Department which shall immediately suspend]~~ **order the suspension of** the **person’s** license, tag, permit or certificate of number until the ~~[court notifies the Department that the suspension may be removed]~~.

~~—4. The Department shall suspend the license, tag, permit or certificate of number of a person 31 days after the Department mails the person the notice provided for in subsection 2, unless within that period the Department receives a written request for a hearing from the person or notice from the court on a form approved by the Department that the person has appeared or the citation or complaint has been dismissed. A license, tag, permit or certificate of number~~

~~so suspended remains suspended until further notice is received from the court that the person has appeared or that the case has been~~ **person satisfies a judgment of conviction or the case is** otherwise disposed of as provided by law. **If a judgment of conviction is satisfied or the case is otherwise disposed of, the clerk of the court shall so notify the Department on a form approved by the Department and the Department shall reinstate the license, tag, permit or certificate of number.**

Sec. 5. NRS 501.387 is hereby amended to read as follows:

501.387 1. Except as otherwise provided by specific statute, upon a conviction of a violation of any provision of this title, or any regulation adopted pursuant to this title, in addition to the penalty provided for the violation, the court may ~~require~~ :

(a) Order that any license issued under the provisions of this title and held by the convicted person be suspended or revoked for a period of not more than 3 years; and

(b) Require the immediate surrender of all licenses issued under the provisions of this title and held by the convicted person. Upon receipt of a surrendered license, the court shall forward it to the Commission.

2. In addition to the penalty provided for the violation of any of the provisions of this title, the court may cause to be confiscated all wildlife taken or possessed by the convicted person. All confiscated wildlife must be disposed of as directed by the court.

3. A convicted person shall not, during the time the person's license is revoked or suspended:

(a) Engage in any activity for which the license was issued; or

(b) Purchase or otherwise obtain a license which has been suspended or revoked.

4. Any person who is convicted of violating the provisions of subsection 3 shall be punished by a fine of not more than \$1,000 or by imprisonment in a county jail for a period not to exceed 6 months, or by both a fine and imprisonment. In addition, the **court may order that the** revocation or suspension of the license of the convicted person ~~may~~ be extended by an amount of time equal to the original period of revocation or suspension.

Sec. 6. NRS 501.388 is hereby amended to read as follows:

501.388 1. ~~The Commission~~ **A court of competent jurisdiction** may, in addition to any suspension, revocation or other penalty imposed pursuant to any other provision of this title:

(a) ~~Revoke~~ **Order the revocation of** any license of any person who is convicted of a violation of NRS 503.050, and ~~may refuse to~~ **order that the Department not** issue any new license to the convicted person for any period not to exceed 5 years after the date of the conviction; and

(b) ~~Revoke~~ **Order the revocation of** any license of any person who is convicted of unlawfully killing or possessing a bighorn sheep, mountain goat, elk, deer, pronghorn antelope, ~~mountain lion~~ or black bear in violation of NRS 501.376, and may:

(1) ~~Refuse to~~ **Order that the Department not** issue any new license to the convicted person for any period not to exceed 3 years; and

(2) Revoke that person's privilege to apply for any big game tag for a period not to exceed 10 years.

2. The court in which the conviction is had shall require the immediate surrender of all such licenses and shall forward them to the Commission.

Sec. 7. NRS 502.370 is hereby amended to read as follows:

502.370 1. A license to practice taxidermy is required before any person may perform taxidermal services for others on any wildlife or their parts, nests or eggs.

2. Annual licenses must be issued by the Department to applicants who satisfy the requirements established by the Department and pay a fee of:

Fee to practice commercial taxidermy \$44

Fee to practice noncommercial taxidermy..... 20

3. Any person who wishes to obtain a license to practice taxidermy must apply for the license on an application form provided by the Department. The applicant must provide such information on the form as the Commission may require by regulation.

4. The Commission may adopt regulations governing the licensing of taxidermists and the practice of taxidermy, including:

(a) The receipt, possession, transportation, identification, purchase and sale of wildlife or parts thereof to be or which have been processed by a taxidermist;

(b) The maintenance and submission of written records; and

(c) Any other matter concerning the practice, conduct and operating procedures of taxidermists as the Commission may deem necessary.

5. A person who is authorized to enforce the provisions of this title may enter the facilities of a licensee at any reasonable hour and inspect the licensee's operations and records.

6. If a licensee is convicted of a violation of any provision of this title or the regulations adopted by the Commission, ~~the Commission~~ **a court of competent jurisdiction** may ~~revoke~~ **order the revocation of** his or her license and ~~may refuse to~~ **order the Department not to** issue another license to him or her for a period not to exceed 5 years.

7. The provisions of this section do not apply to institutions of learning of this State or of the United States, or to research activities conducted exclusively for scientific purposes, or for the advancement of agriculture, biology or any of the sciences.

Sec. 8. NRS 503.185 is hereby amended to read as follows:

503.185 1. Every person involved in a hunting accident where damage to property results, or which involves the injury of or death to another person, shall file a report of the accident with the Department within 30 days after the accident. The report must be on the form prescribed by the Department.

2. ~~{The Department}~~ **A court of competent jurisdiction** shall ~~{revoke}~~ **order the revocation of** any hunting license held by a person convicted of violating NRS 503.165 or 503.175, if the violation results in an injury to or the death of another person. The Department shall not issue another such license to the person sooner than 2 years after the revocation.

Sec. 9. NRS 503.310 is hereby amended to read as follows:

503.310 1. The Commission may regulate or prohibit the use of live bait in fishing so that no undesirable species are introduced into the public waters of this State.

2. Any person engaged in the sale of live bait must first obtain a permit from the Department for the fee provided in NRS 502.240. ~~{The permit may be revoked}~~ **A court of competent jurisdiction may order the revocation of the permit** for any violation of regulations.

3. The Commission may prescribe the species which may be held or sold by the permittee.

Sec. 10. NRS 504.380 is hereby amended to read as follows:

504.380 The violation of any of the provisions of NRS 504.300 to 504.370, inclusive, or the rules and regulations prescribed by the Commission is punishable in accordance with the provisions of NRS 501.385, and in addition thereto any license issued under the provisions of NRS 504.300 to 504.370, inclusive, may be revoked by ~~{the Commission or by}~~ **order of** a court of competent jurisdiction for the balance of the license term, and no new license may be issued during the same license year.

Sec. 11. NRS 504.390 is hereby amended to read as follows:

504.390 1. As used in this section, unless the context otherwise requires:

(a) “Compensation” means any remuneration given in exchange for providing guide service which is predicated on a business relationship between the parties. The term does not include any reimbursement for shared trip expenses, including, without limitation, expenses for gasoline, food or any other costs that are generally associated with persons who are engaging in recreational hunting or fishing together.

(b) “Guide” means to assist another person for compensation in hunting wild mammals or wild birds and fishing and includes the transporting of another person or the person’s equipment to hunting and fishing locations within a general hunting and fishing area whether or not the guide determines the destination or course of travel.

2. Each person who provides guide service for compensation or provides guide service as an incidental service to customers of any commercial enterprise, whether a direct fee is charged for the guide service or not, must obtain a master guide license from the Department. Such a license must not be issued to any person who has not reached 21 years of age.

3. Except as otherwise provided in this subsection, each person who assists a person who is required to have a master guide license and acts as a guide in the course of that activity must obtain a subguide license from the Department.

Such a license must not be issued to any person who has not reached 18 years of age. The provisions of this subsection do not apply to a person who:

(a) Is employed by or assists a person who holds a master guide license solely for the purpose of cooking, cutting wood, caring for, grooming or saddling livestock, or transporting a person by motor vehicle to or from a public facility for transportation, including, without limitation, a public airport.

(b) Holds a master guide license which authorizes the person to provide services for the same species and in the same areas as the guide who employs him or her or requests the person's assistance and has submitted to the Department a notarized statement which indicates that the person is employed by or provides assistance to the guide. The statement must be signed by both guides.

4. Fees for master guide and subguide licenses must be as provided in NRS 502.240.

5. Any person who desires a master guide license must apply for the license on a form prescribed and furnished by the Department. The application must contain the social security number of the applicant and such other information as the Commission may require by regulation. If that person was not licensed as a master guide during the previous licensing year, the person's application must be accompanied by a nonrefundable fee of \$1,500.

6. Any person who desires a subguide license must apply for the license on a form prescribed and furnished by the Department. If that person was not licensed as a subguide during the previous licensing year, the person's application must be accompanied by a nonrefundable fee of \$50.

7. It is unlawful for the holder of a master guide license to operate in any area where a special use permit is required without first obtaining a permit unless the holder is employed by or providing assistance to a guide pursuant to subsection 3.

8. The holder of a master guide license shall maintain records of the number of hunters and anglers served, and any other information which the Department may require concerning fish and game taken by such persons. The information must be furnished to the Department on request.

9. If any licensee under this section, or person served by a licensee, is convicted of a violation of any provision of this title or chapter 488 of NRS, ~~the Commission~~ **a court of competent jurisdiction** may ~~revoke~~ **order the revocation of** the license of the licensee and may ~~refuse issuance of~~ **order the Department not to issue** another license to the licensee for a period not to exceed 5 years.

10. The Commission may adopt regulations covering the conduct and operation of a guide service.

11. The Department may issue master guide and subguide licenses that are valid only in certain management areas, management units or administrative regions in such a manner as may be determined by the regulations of the Commission.

Sec. 12. NRS 504.395 is hereby amended to read as follows:

504.395 1. Any person who purposefully or knowingly acts as a master guide or as a subguide without first obtaining a license pursuant to NRS 504.390 is guilty of:

(a) For a first offense, a gross misdemeanor.

(b) For a second or subsequent offense, a category E felony and shall be punished as provided in NRS 193.130.

2. Any vessel, vehicle, aircraft, pack or riding animal or other equipment used by a person operating in violation of subsection 1 is subject to forfeiture upon the conviction of that person of a gross misdemeanor or felony if that person knew or should have known that the vessel, vehicle, aircraft, animal or equipment would be used in violation of subsection 1.

3. In addition to any penalty imposed pursuant to subsection 1, if a person is convicted of violating a provision of that subsection, ~~the Commission~~ **a court of competent jurisdiction** shall:

(a) ~~Revoke~~ **Order the revocation of** any license, permit or privilege issued to that person pursuant to this title; and

(b) ~~Refuse~~ **Order the Department not** to issue any new license, permit or privilege to the person for 5 years after the date of the conviction.

Sec. 13. Any regulations adopted by the Board of Wildlife Commissioners ~~[pursuant to NRS 501.1814, as that section existed]~~ **on or before July 1, 2015, related to a system of assessing demerit points for wildlife convictions, which conflict with the provisions of this act** are void. The Legislative Counsel shall remove those regulations from the Nevada Administrative Code as soon as practicable after July 1, 2015.

Sec. 14. ~~[NRS 501.1812, 501.1814, 501.1816, 501.1817 and 501.1818 are hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 15. This act becomes effective on July 1, 2015.

†

~~LEADLINES OF REPEALED SECTION~~

~~501.1812 System of assessing demerit points for wildlife convictions;~~

~~Definitions;~~

~~501.1814 System of assessing demerit points for wildlife convictions;~~

~~Establishment and administration of system; assessment and deletion of points;~~

~~501.1816 System of assessing demerit points for wildlife convictions;~~

~~Reduction of accumulated points; suspension or revocation of licenses, permits or privileges;~~

~~501.1817 System of assessing demerit points for wildlife convictions;~~

~~Judicial review of suspension or revocation of license, permit or privilege;~~

~~501.1818 System of assessing demerit points for wildlife convictions;~~

~~Regulations.]~~

Assemblywoman Titus moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 163.

Bill read second time.

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

Amendment No. 95.

AN ACT relating to fire protection; providing for the creation of rangeland fire protection associations; authorizing ~~the board of county commissioners,~~ **certain boards** to approve a petition to create ~~an~~ **a rangeland fire protection** association; providing for the evaluation of **such** an association by the **authorizing** board and the State Forester Firewarden; requiring the State Forester Firewarden to adopt regulations **and develop recommendations** relating to the formation, operation and training of the members of **such** an association; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~{Section}~~ **Sections 3 , 7.5 and 7.7** of this bill ~~authorizes~~ **authorize** a board of county commissioners **, board of directors of a county fire protection district or board of fire commissioners of certain other districts** to approve a petition submitted by any business entity or cooperative or any two or more ~~rangeland agricultural producers or~~ **persons who own, lease, produce agriculture on or otherwise control or occupy** property ~~owners~~ within the county **or district** to create a rangeland fire protection association if the petitioners meet certain requirements. ~~{Section}~~ **Sections 3 , 7.5 and 7.7** additionally ~~provides~~ **provide** for the routine evaluation of such an association by the **authorizing** board **in cooperation with the State Forester Firewarden** during the term of a cooperative agreement based on certain criteria and requires the State Forester Firewarden to adopt regulations **and develop recommendations** relating to the formation, operation and training of the members of such an association.

Existing law authorizes fire protection districts, the State Forester Firewarden and a board of county commissioners to enter into certain cooperative agreements for the purpose of providing fire protection services in this State. (NRS 472.050-472.070) **Sections 4-6 , 8 and 9** of this bill authorize fire protection districts, the State Forester Firewarden and a board of county commissioners to enter into such agreements with a rangeland fire protection association.

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

Section 1. Chapter 472 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~, and~~ **3 and 3.5** of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the term "rangeland fire protection association" means a nonprofit ~~unincorporated~~ association formed for the purpose of protecting rangeland from wildfire pursuant to section 3 , 7.5 or 7.7 of this act ~~it~~ **as applicable.***

Sec. 3. 1. ~~[Any]~~ Except as otherwise provided in sections 7.5 and 7.7 of this act, any business entity or cooperative or any two or more ~~rangeland agricultural producers or~~ persons who own, lease, produce agriculture on or occupy property ~~owners~~ within a county in this State may establish a rangeland fire protection association by petitioning the board of county commissioners of the county in which the petitioners reside or in which their property is located for recognition as a rangeland fire protection association.

2. A board of county commissioners may approve a petition submitted pursuant to subsection 1 if the petitioners:

(a) Meet the requirements established by the board relating to the creation, operation and duties of a rangeland fire protection association.

(b) Provide to the board a copy of written notice from the State Forester Firewarden that the ~~petitioners have met~~ proposed rangeland fire protection association meets all the applicable requirements set forth in the regulations adopted by the State Forester Firewarden pursuant to ~~subsection 5~~ section 3.5 of this act concerning the formation, operation and training of the members of a rangeland fire protection association.

3. A board of county commissioners, in cooperation with the State Forester Firewarden or his or her designee, shall, before the board enters into a cooperative agreement with a rangeland fire protection association pursuant to NRS 472.060 or 472.070 and annually thereafter during the term of the agreement, evaluate:

(a) The governance and management structure of the association;

(b) The adequacy of any policy of liability insurance carried by the association;

(c) The condition and maintenance of the vehicles and equipment used by the association in carrying out its duties; and

(d) The training and qualifications of each member of the association in accordance with national standards or other substantially equivalent standards determined by the State Forester Firewarden.

4. A board of county commissioners may delegate the performance of the evaluation required pursuant to subsection 3 to the State Forester Firewarden. The State Forester Firewarden shall report to the board of county commissioners the results of any such delegated evaluation.

5. The board of county commissioners, the State Forester Firewarden and any other agency which is a party to a cooperative agreement entered into with a rangeland fire protection association shall, to the extent practicable, assist the association in procuring funding for the association, carrying out the duties of the association, training the members of the association and providing personal protective equipment for the members of the association.

~~[5.]~~

Sec. 3.5. 1. The State Forester Firewarden shall adopt regulations governing a rangeland fire protection association established pursuant to section 3 of this act setting forth:

(a) *The requirements for the formation of such a rangeland fire protection association, including the governance and management structure of an association;*

(b) *The scope of the operations which may be conducted by such an association;*

(c) *The training requirements for the members of such an association;*

(d) *The amount of liability insurance that must be carried by such an association; and*

(e) *Any financial requirements for the formation and operation of such an association.*

2. The State Forester Firewarden shall develop recommendations concerning the formation, operation and training of the members of a rangeland fire protection association established pursuant to section 7.5 or 7.7 of this act. Such recommendations must address the topics set forth in subsection 1.

Sec. 4. NRS 472.050 is hereby amended to read as follows:

472.050 1. The State Forester Firewarden, with the approval of the Director of the State Department of Conservation and Natural Resources, may represent the State of Nevada in negotiating and entering into agreements with the Federal Government for the purpose of securing cooperation in forest management and the protection of the forest and watershed areas of Nevada from fire, and enter into such other agreements with boards of county commissioners, municipalities, **rangeland fire protection associations and other** organizations and individuals in the State of Nevada owning lands therein, as are necessary in carrying out the terms of the federal agreements or that will otherwise promote and encourage forest management and the protection from fire of forest or other lands having an inflammable cover.

2. Any federal money allotted to the State of Nevada under the terms of the federal agreements and such other money as may be received by the State for the management and protection of forests and watershed areas therein shall be deposited in the Division of Forestry Account in the State General Fund.

Sec. 5. NRS 472.060 is hereby amended to read as follows:

472.060 Any fire protection district and board or boards of county commissioners of the State of Nevada may:

1. Enter into cooperative agreements with the State Forester Firewarden subject to the approval of the Director of the State Department of Conservation and Natural Resources, acting for the State, and with other counties, **rangeland fire protection associations and other** organizations and individuals, to prevent and suppress outdoor fires.

2. Appropriate and expend funds for the payment of wages and expenses incurred in fire prevention and fire suppression, ~~for~~ for the purchase, construction and maintenance of forest protection improvements and equipment ~~for~~ and for paying other expenses incidental to the protection of forest and other lands from fire, including any portion of the office and travel

expense of the Division of Forestry incurred in carrying out the provisions of any cooperative agreements with the State of Nevada.

Sec. 6. NRS 472.070 is hereby amended to read as follows:

472.070 The State Forester Firewarden with the approval of the Director of the State Department of Conservation and Natural Resources, fire protection districts, and the boards of county commissioners, separately or collectively, may enter into agreements with the United States Forest Service, United States Bureau of Land Management, ~~and~~ other fire protection agencies ~~and~~ **rangeland fire protection associations** to provide for placing any or all portions of the fire protection work under the direction of the agency **or association** concerned, under such terms as the contracting parties deem equitable, and may place any or all funds appropriated or otherwise secured for forest protection in the cooperative work fund of the respective agency **or rangeland fire protection association** for disbursement by that agency **or association** for the purposes stated in the agreements and otherwise in conformity with the terms thereof.

Sec. 7. Chapter 474 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ **the provisions set forth as sections 7.2, 7.5 and 7.7 of this act.**

Sec. 7.2. *As used in this chapter, unless the context otherwise requires, the term “rangeland fire protection association” has the meaning ascribed to it in section 2 of this act.*

Sec. 7.5. 1. Any business entity or cooperative or any two or more persons who own, lease, produce agriculture on or otherwise control or occupy property within a county fire protection district organized pursuant to NRS 474.010 to 474.450, inclusive, may establish a rangeland fire protection association by petitioning the board of directors of the county fire protection district in which the petitioners reside or in which their property is located for recognition as a rangeland fire protection association.

2. The board of directors of a county fire protection district may approve a petition submitted pursuant to subsection 1 if the petitioners:

(a) Meet the requirements established by the board relating to the creation, operation and duties of a rangeland fire protection association.

(b) Provide to the board a copy of written notice from the State Forester Firewarden that the proposed rangeland fire protection association complies with the recommendations developed by the State Forester Firewarden pursuant to section 3.5 of this act concerning the formation, operation and training of the members of a rangeland fire protection association.

3. The board of directors of a county fire protection district, in cooperation with the State Forester Firewarden or his or her designee, shall, before the board enters into a cooperative agreement with a rangeland fire protection association pursuant to NRS 472.060 or 472.070 and annually thereafter during the term of the agreement, evaluate:

(a) The governance and management structure of the association;

(b) The adequacy of any policy of liability insurance carried by the association;

(c) The condition and maintenance of the vehicles and equipment used by the association in carrying out its duties; and

(d) The training and qualifications of each member of the association in accordance with national standards or other substantially equivalent standards determined by the county fire protection district.

4. The board of directors of a county fire protection district may delegate the performance of the evaluation required pursuant to subsection 3 to the State Forester Firewarden. The State Forester Firewarden shall report to the board of directors of the county fire protection district the results of any such delegated evaluation.

5. The board of directors of a county fire protection district, the State Forester Firewarden and any other agency which is a party to a cooperative agreement entered into with a rangeland fire protection association shall, to the extent practicable, assist the association in procuring funding for the association, carrying out the duties of the association, training the members of the association and providing personal protective equipment for the members of the association.

Sec. 7.7. 1. Any business entity or cooperative or any two or more persons who own, lease, produce agriculture on or otherwise control or occupy property within a district organized pursuant to NRS 474.460 may establish a rangeland fire protection association by petitioning the board of fire commissioners of the district in which the petitioners reside or in which their property is located for recognition as a rangeland fire protection association.

2. The board of fire commissioners of the district may approve a petition submitted pursuant to subsection 1 if the petitioners:

(a) Meet the requirements established by the board relating to the creation, operation and duties of a rangeland fire protection association.

(b) Provide to the board a copy of written notice from the State Forester Firewarden that the proposed rangeland fire protection association complies with the recommendations developed by the State Forester Firewarden pursuant to section 3.5 of this act concerning the formation, operation and training of the members of a rangeland fire protection association.

3. The board of fire commissioners of a district organized pursuant to NRS 474.460, in cooperation with the State Forester Firewarden or his or her designee, shall, before the board enters into a cooperative agreement with a rangeland fire protection association pursuant to NRS 472.060 or 472.070 and annually thereafter during the term of the agreement, evaluate:

(a) The governance and management structure of the association;

(b) The adequacy of any policy of liability insurance carried by the association;

(c) The condition and maintenance of the vehicles and equipment used by the association in carrying out its duties; and

(d) The training and qualifications of each member of the association in accordance with national standards or other substantially equivalent standards determined by the district.

4. The board of fire commissioners of a district organized pursuant to NRS 474.460 may delegate the performance of the evaluation required pursuant to subsection 3 to the State Forester Firewarden. The State Forester Firewarden shall report to the board of fire commissioners the results of any such delegated evaluation.

5. The board of fire commissioners of a district organized pursuant to NRS 474.460, the State Forester Firewarden and any other agency which is a party to a cooperative agreement entered into with a rangeland fire protection association shall, to the extent practicable, assist the association in procuring funding for the association, carrying out the duties of the association, training the members of the association and providing personal protective equipment for the members of the association.

Sec. 8. NRS 474.163 is hereby amended to read as follows:

474.163 1. The board of directors of a county fire protection district may appoint a district fire chief who shall have adequate training and experience in fire control and who shall hire such employees as are authorized by the board. The district fire chief shall administer all fire control laws in the district and perform such other duties as may be designated by the board of directors. The district fire chief shall coordinate fire protection activities in the district and shall cooperate with all other fire protection agencies ~~[-]~~ **and rangeland fire protection associations.**

2. In lieu of or in addition to the provisions of subsection 1, the board of directors may:

(a) Provide fire protection to the county fire protection district by entering into agreements with other agencies **or rangeland fire protection associations** as provided by NRS 277.180 and 472.060 to 472.090, inclusive, for the furnishing of such protection to the district; or

(b) Support volunteer fire departments within the county fire protection district for the furnishing of such protection to the district.

Sec. 8.5. NRS 474.470 is hereby amended to read as follows:

474.470 The board of fire commissioners shall:

1. Manage and conduct the business and affairs of districts organized pursuant to the provisions of NRS 474.460.

2. Adopt and enforce all rules and regulations necessary for the administration and government of the districts and for the furnishing of fire protection thereto, which may include regulations relating to emergency medical services and fire prevention. The regulations may include provisions that are designed to protect life and property from:

(a) The hazards of fire and explosion resulting from the storage, handling and use of hazardous substances, materials and devices; and

(b) Hazardous conditions relating to the use or occupancy of any premises.

↪ Any regulation concerning hazardous substances, materials or devices adopted pursuant to this section must be consistent with any plan or ordinance concerning those substances, materials or devices that is required by the Federal Government and has been adopted by the board of county commissioners.

3. Organize, regulate, establish and disband fire companies, departments or volunteer fire departments for the districts.

4. Provide for the payment of salaries to the personnel of those fire companies or fire departments.

5. Provide for payment from the proper fund of all the debts and just claims against the districts.

6. Employ agents and employees for the districts sufficient to maintain and operate the property acquired for the purposes of the districts.

7. Acquire real or personal property necessary for the purposes of the districts and dispose of the property if no longer needed.

8. Construct any necessary structures.

9. Acquire, hold and possess, by donation or purchase, any land or other property necessary for the purpose of the districts.

10. Eliminate and remove fire hazards from the districts if practicable and possible, whether on private or public premises, and to that end the board of fire commissioners may clear the public highways and private lands of dry grass, stubble, brush, rubbish or other inflammable material in its judgment constituting a fire hazard.

11. Perform all other acts necessary, proper and convenient to accomplish the purposes of NRS 474.460 to 474.540, inclusive ~~and section 7.7 of this act~~.

Sec. 9. NRS 474.500 is hereby amended to read as follows:

474.500 1. The board of fire commissioners may appoint a district fire chief who shall have adequate training and experience in fire control and who shall hire such employees as are authorized by the board. The district fire chief shall administer all fire control laws in the territory of the county described by NRS 474.460 and perform such other duties as may be designated by the board of fire commissioners and the State Forester Firewarden. The district fire chief shall coordinate fire protection activities in the district and shall cooperate with all other existing fire protection agencies **and rangeland fire protection associations** and with the State Forester Firewarden for the standardization of equipment and facilities.

2. In lieu of or in addition to the provisions of subsection 1, the board of fire commissioners may:

(a) Provide the fire protection required by NRS 474.460 to 474.540, inclusive, **and section 7.7 of this act** to the districts by entering into agreements with other agencies **or rangeland fire protection associations** as provided by NRS 472.060 to 472.090, inclusive, and 277.180, for the furnishing of such protection to the districts; or

(b) Support volunteer fire departments within districts organized under the provisions of NRS 474.460 to 474.540, inclusive, **and section 7.7 of this act** for the furnishing of such protection to the districts.

Sec. 10. This act becomes effective:

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

2. On January 1, 2016, for all other purposes.

Assemblyman Ellison moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 191.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 429.

AN ACT relating to taxation; revising provisions relating to the imposition by certain counties of additional taxes on fuels for motor vehicles; providing that the boards of county commissioners of certain larger counties may continue the imposition of certain additional taxes on fuels for motor vehicles if a ballot question authorizing such additional taxes is approved by a majority of the voters in the county; providing for the imposition by the boards of county commissioners of certain counties of additional taxes on fuels for motor vehicles if a ballot question authorizing such additional taxes is approved by a majority of the voters in the county; requiring the approval by voters of additional ballot measures to continue the imposition of the additional taxes; providing that money collected from certain of the additional taxes must be deposited with the State Treasurer to the credit of the State Highway Fund, accounted for separately in the State Highway Fund and used by the Department of Transportation only to finance projects for the construction, maintenance and repair of state highways in the county in which the tax is collected; repealing certain provisions relating to a ballot question providing for the imposition by the State of certain additional taxes on fuels for motor vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes counties to impose certain taxes on motor vehicle fuels and special fuels used in motor vehicles. (Chapter 373 of NRS) Existing law authorizes the board of county commissioners of a county whose population is 700,000 or more and in which a regional transportation commission has been created and a county tax is imposed on motor vehicle fuel (currently Clark County) to impose, upon approval by a two-thirds majority of the members of the board, additional taxes on motor vehicle fuel and various special fuels used in motor vehicles. Existing law also authorizes the board of county commissioners to provide for annual increases in these taxes, for the period beginning on January 1, 2014, and ending on December

31, 2016. Existing law provides that for the period beginning on January 1, 2017: (1) the board of county commissioners must not impose any additional increases in certain taxes authorized by that provision of existing law; and (2) increases in the remainder of the taxes authorized by that provision may not be effectuated unless a majority of the voters in the county at the general election in November 2016 authorize the board of county commissioners to continue to provide for the annual increases. (NRS 373.0663) **Section 2** of this bill removes the prohibition on the continued imposition of additional increases in certain taxes, subject to the existing provisions which provide that the additional increases may not be effectuated unless a majority of the voters in the county at the general election in November 2016 authorize the board of county commissioners to continue to provide for the annual increases. **Section 2** additionally provides that for the period beginning on January 1, 2027, additional annual increases in the taxes on motor vehicle fuel and various special fuels used in motor vehicles may not be effectuated unless a majority of the voters in the county at the general election in November 2026 authorize the board of county commissioners to continue to provide for the annual increases. ~~Regardless of the outcome of those elections,~~ **If the voters in the county at the general election in November 2016 authorize the board of county commissioners to continue to provide for the annual increases,** **section 1** of this bill provides that any money collected from certain additional taxes imposed on motor vehicle fuel and various special fuels used in motor vehicles after November 8, 2016, must be deposited with the State Treasurer to the credit of the State Highway Fund, accounted for separately in the State Highway Fund and used by the Department of Transportation only to finance projects for the construction, maintenance and repair of state highways in the county in which the tax is collected. **Sections 4, 7, 9 and 12** of this bill make conforming changes.

Upon approval by a majority of the voters in any county, other than Clark or Washoe County, at the general election in November 2016, existing law requires the board of county commissioners of the county to impose additional county taxes on motor vehicle fuel and various special fuels used in motor vehicles. Existing law also authorizes the board of county commissioners to provide for annual increases in these taxes, for the period beginning on January 1, 2017, and ending on December 31, 2026. Additionally, existing law provides that, for the period beginning on January 1, 2027, the increases in these taxes may not be effectuated unless a majority of the voters in the county at the general election in November 2026 authorize the board of county commissioners to continue to provide for the annual increases. (NRS 373.0667) Existing law also provides for a statewide ballot measure, approval of which by a majority of the voters in the State at the general election in November 2016 would require the State to impose additional state taxes on motor vehicle fuel and various special fuels used in motor vehicles and to impose annual increases on those taxes. (Section 12 of chapter 540, Statutes of Nevada 2013, p. 3586) **Section 18** of this bill repeals the provisions of

existing law relating to the statewide ballot measure concerning the imposition by the State of additional state taxes on motor vehicle fuel and various special fuels used in motor vehicles. **Sections 3 and 17** of this bill instead require the board of county commissioners of a county other than Clark or Washoe County, upon approval by a majority of the voters in the county at the general election in November 2016, to impose such additional taxes on motor vehicle fuel and various special fuels used in motor vehicles in the same manner as the board is required under existing law to impose the additional county taxes on motor vehicle fuel and various special fuels used in motor vehicles. ~~[Section]~~ **Sections 14.5 and 15** of this bill ~~[provides]~~ **provide** that money collected from certain additional taxes imposed on motor vehicle fuel and various special fuels used in motor vehicles on or after January 1, 2017, must be deposited with the State Treasurer to the credit of the State Highway Fund, accounted for separately in the State Highway Fund and used by the Department of Transportation only to finance projects for the construction, maintenance and repair of state highways in the county in which the tax is collected. **Sections 4.5, 5, 6, 7.5, 8, 9.5, 10, 11, 12.5, 13, 14 and 18** of this bill make conforming changes.

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

Section 1. Chapter 373 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law, money collected ~~after November 8, 2016,~~ from the annual increases in the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 of NRS 373.0663 and imposed by the ordinance after November 8, 2016, must be deposited with the State Treasurer to the credit of the State Highway Fund, accounted for separately in the State Highway Fund and used by the Department of Transportation only to finance projects for the construction, maintenance and repair of state highways in the county in which the tax is collected.

Sec. 2. NRS 373.0663 is hereby amended to read as follows:

373.0663 1. Except as otherwise provided in this section, in a county whose population is 700,000 or more and in which a commission has been created and a tax is imposed pursuant to NRS 373.030:

(a) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 3.6 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 3.6 cents per gallon to the amount of the tax

imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(b) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(c) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1 cent per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1 cent per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(d) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 9 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 9 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or

the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(e) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 18.455 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.455 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(f) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 18.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(g) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel that consists of an emulsion of water-phased hydrocarbon fuel sold in the county in an amount equal to the product obtained by multiplying 19 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 19 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(h) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in the county in an amount equal to the product obtained by multiplying 22 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 22 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(i) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel that consists of compressed natural gas sold in the county in an amount equal to the product obtained by multiplying 21 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 21 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(j) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel sold in the county, other than any special fuel described in paragraph (g), (h) or (i), in an amount equal to the product obtained by multiplying 27.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 27.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(k) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(l) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel that consists of compressed natural gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(m) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel sold in the county, other than any special fuel described in paragraph (k) or (l), which is taxed by the Federal Government at a rate per gallon or gallon equivalent of 24.4 cents or more, in an amount equal to the product obtained by multiplying 24.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 24.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

2. An ordinance authorized by this section must be approved by a two-thirds majority of the members of the board. If the board adopts an ordinance

authorized by this section, the ordinance must impose all of the taxes authorized by this section. Upon the adoption of such an ordinance, and except as otherwise provided in subsection 5, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance.

3. If the board adopts an ordinance imposing the taxes authorized by this section, the ordinance:

- (a) Must be adopted before October 1, 2013;
- (b) Must become effective on January 1, 2014; and
- (c) Is not affected by any changes in the population of the county which occur after the adoption of the ordinance.

4. The applicable percentage specified by the board for the taxes imposed pursuant to this section must be the same percentage for each tax imposed pursuant to this section. Except as otherwise provided in subsection 5, the board may amend the applicable percentage by ordinance from time to time, but any such amendment must not become effective earlier than 90 days after the date of the adoption of the ordinance amending the applicable percentage. Except as otherwise provided in subsection 4 of NRS 373.120, the applicable percentage must not be amended to reduce the applicable percentage at any time that bonds are outstanding which are secured by the taxes imposed pursuant to this section.

5. Upon the adoption of an ordinance authorized by this section:

(a) For the period beginning on January 1, 2014, and ending on December 31, 2016, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance.

(b) For the period beginning on January 1, 2017 ~~to~~:

~~—(1) The board shall not impose any additional annual increases in the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 and imposed by the ordinance after November 8, 2016, but any annual increases in the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 and imposed by the ordinance on or before November 8, 2016, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 and imposed by the ordinance.~~

~~—(2) The~~, **and ending on December 31, 2026, the** annual increases in the taxes authorized by ~~paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1~~ **this section** and imposed by the ordinance may not be effectuated unless a question is placed on the ballot at the general election on November 8, 2016, which asks the voters in the county whether to authorize the board to impose, for the period beginning on January 1, 2017, the increases authorized by ~~paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1~~ **this section** in the taxes imposed by the ordinance and the question is approved by a majority of the registered voters voting on the question. If the question is approved by a majority of such voters, no further action by the board is

necessary to effectuate the annual increases in the taxes authorized by ~~paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1]~~ **this section** and imposed by the ordinance. If the question is not approved by a majority of such voters, the board shall not impose any additional annual increases in the taxes authorized by ~~paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1]~~ **this section** and imposed by the ordinance after November 8, 2016, but any annual increases in such taxes imposed by the ordinance on or before November 8, 2016, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by such taxes imposed by the ordinance.

(c) For the period beginning on January 1, 2027, if the question placed on the ballot pursuant to paragraph (b) is approved by a majority of the registered voters in the county voting on the question, the annual increases in the taxes authorized by this section and imposed by the ordinance may be effectuated if a question is placed on the ballot at the general election on November 3, 2026, which asks the voters in the county whether to authorize the board to impose, for the period beginning on January 1, 2027, the increases authorized by this section in the taxes imposed by the ordinance and the question is approved by a majority of the registered voters voting on the question. If the question is approved at the general election on November 3, 2026, by a majority of such voters, no further action by the board is necessary to effectuate the annual increases in the taxes authorized by this section and imposed by the ordinance. If the question is not approved by a majority of such voters, the board shall not impose any additional annual increases in the taxes authorized by this section and imposed by the ordinance after November 3, 2026, but any annual increases in such taxes imposed by the ordinance on or before November 3, 2026, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by such taxes imposed by the ordinance.

6. As used in this section:

(a) “Adjusted average highway and street construction inflation index” means:

(1) For the fiscal year in which an ordinance adopted pursuant to this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero; and

(2) For each fiscal year following the fiscal year in which the ordinance becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the adjusted average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero.

(b) “Applicable percentage” means the lesser of 7.8 percent or the percentage specified by the board in any ordinance imposing a tax pursuant to this section.

(c) “Average highway and street construction inflation index” means for a fiscal year the average percentage increase in the highway and street construction inflation index for the 10 calendar years immediately preceding the beginning of that fiscal year.

(d) “Highway and street construction inflation index” means:

(1) The Producer Price Index for Highway and Street Construction until that Index ceased to be published; and

(2) The Producer Price Index for Other Nonresidential Construction thereafter or, if that Index ceases to be published by the United States Department of Labor, the published index that most closely measures inflation in the costs of highway and street construction, as determined by the commission.

(e) “Special fuel” has the meaning ascribed to it in NRS 366.060.

Sec. 3. NRS 373.0667 is hereby amended to read as follows:

373.0667 1. In addition to any other tax imposed pursuant to this chapter:

(a) The board shall by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 3.6 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 3.6 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(b) The board shall by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(c) The board shall by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1 cent per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1 cent per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(d) The board shall by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 9 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 9 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(e) ***The board shall by ordinance impose:***

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 18.455 cents per gallon by the lesser of the applicable percentage

or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.455 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(f) The board shall by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 18.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

~~{{(f)}}~~ *(g) The board shall by ordinance impose:*

(1) An excise tax on each gallon of special fuel that consists of an emulsion of water-phased hydrocarbon fuel sold in the county in an amount equal to the product obtained by multiplying 19 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 19 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(h) The board shall by ordinance impose:

(1) An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in the county in an amount equal to the product obtained by multiplying 22 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) *Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 22 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(i) *The board shall by ordinance impose:*

(1) *An excise tax on each gallon of special fuel that consists of compressed natural gas sold in the county in an amount equal to the product obtained by multiplying 21 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 21 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(j) *The board shall by ordinance impose:*

(1) *An excise tax on each gallon of special fuel sold in the county, other than any special fuel described in paragraph (g), (h) or (i), in an amount equal to the product obtained by multiplying 27.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 27.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(k) *The board shall by ordinance impose:*

(1) *An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal*

year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

~~[(g)]~~ **(l)** The board shall by ordinance impose:

(1) An excise tax on each gallon of special fuel that consists of compressed natural gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

~~[(h)]~~ **(m)** The board shall by ordinance impose:

(1) An excise tax on each gallon of special fuel sold in the county, other than any special fuel described in paragraph ~~[(f) or (g)]~~ **(k) or (l)**, which is taxed by the Federal Government at a rate per gallon or gallon equivalent of 24.4 cents or more, in an amount equal to the product obtained by multiplying 24.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 24.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

2. Upon the adoption of the ordinance required by subsection 1, and except as otherwise provided in subsection 4, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance.

3. The applicable percentage specified by the board for the taxes imposed pursuant to this section must be the same percentage for each tax imposed by the board pursuant to this section. Except as otherwise provided in subsection 4, the board may amend the applicable percentage by ordinance from time to time, but any such amendment must not become effective earlier than 90 days

after the date of the adoption of the ordinance amending the applicable percentage. Except as otherwise provided in subsection 4 of NRS 373.120, the applicable percentage must not be amended to reduce the applicable percentage at any time that bonds are outstanding which are secured by the taxes imposed pursuant to this section.

4. Upon the adoption of an ordinance authorized by this section:

(a) For the period beginning on January 1, 2017, and ending on December 31, 2026, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance.

(b) For the period beginning on January 1, 2027, the annual increases in the taxes **authorized by this section and** imposed by the ordinance may ~~not~~ be effectuated ~~unless~~ **if** a question is placed on the ballot at the general election on November 3, 2026, which asks the voters in the county whether to authorize the board to impose, for the period beginning on January 1, 2027, the increases authorized by this section in the taxes imposed by the ordinance and the question is approved by a majority of the registered voters in the county voting on the question. If the question is approved by a majority of such voters, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance. If the question is not approved by a majority of such voters, the board shall not impose any additional annual increases in the taxes imposed by the ordinance after November 3, 2026, but any annual increases in the taxes imposed by the ordinance in effect on or before November 3, 2026, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by the taxes imposed by the ordinance.

5. As used in this section:

(a) “Adjusted average highway and street construction inflation index” means:

(1) For the fiscal year in which an ordinance adopted pursuant to this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero; and

(2) For each fiscal year following the fiscal year in which the ordinance becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage

from the adjusted average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero.

(b) “Applicable percentage” means the lesser of 7.8 percent or the percentage specified by the board in any ordinance imposing a tax pursuant to this section.

(c) “Average highway and street construction inflation index” means for a fiscal year the average percentage increase in the highway and street construction inflation index for the 10 calendar years immediately preceding the beginning of that fiscal year.

(d) “Highway and street construction inflation index” means:

(1) The Producer Price Index for Highway and Street Construction until that index ceased to be published; and

(2) The Producer Price Index for Other Nonresidential Construction thereafter or, if that index ceases to be published by the United States Department of Labor, the published index that most closely measures inflation in the costs of highway and street construction, as determined by the commission.

(e) “Special fuel” has the meaning ascribed to it in NRS 366.060.

Sec. 4. NRS 373.067 is hereby amended to read as follows:

373.067 1. Any ordinance that imposes a tax pursuant to:

(a) The provisions of paragraph (a) of subsection 1 of NRS 373.066 or paragraph (a) of subsection 1 of NRS 373.0663 must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180.

(b) The provisions of paragraph (b) of subsection 1 of NRS 373.066 or paragraph (b) of subsection 1 of NRS 373.0663 must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190.

(c) The provisions of paragraph (c) of subsection 1 of NRS 373.066 or paragraph (c) of subsection 1 of NRS 373.0663 must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192.

(d) Any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 must, except as otherwise required by subsection 6 of NRS 373.140, **and section 1 of this act**, require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 373.030.

2. Any ordinance adopted pursuant to NRS 373.066 or 373.0663 must:

(a) Include a provision prohibiting the imposition of any penalties and interest for the failure to make any payments of any tax imposed by the ordinance which become due within the initial 6 months after the ordinance becomes effective. This provision must apply only to taxes imposed pursuant to NRS 373.066 or 373.0663, and must not apply to any tax imposed pursuant to any other ordinance.

(b) Require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

Sec. 4.5. NRS 373.067 is hereby amended to read as follows:

373.067 1. Any ordinance that imposes a tax pursuant to:

(a) The provisions of paragraph (a) of subsection 1 of NRS 373.066, paragraph (a) of subsection 1 of NRS 373.0663 or paragraph (a) of subsection 1 of NRS 373.0667 must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180.

(b) The provisions of paragraph (b) of subsection 1 of NRS 373.066, paragraph (b) of subsection 1 of NRS 373.0663 or paragraph (b) of subsection 1 of NRS 373.0667 must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190.

(c) The provisions of paragraph (c) of subsection 1 of NRS 373.066, paragraph (c) of subsection 1 of NRS 373.0663 or paragraph (c) of subsection 1 of NRS 373.0667 must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192.

(d) Any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~(4)~~ **(m)**, inclusive, of subsection 1 of NRS 373.0667 must, except as otherwise required by subsection 6 of

NRS 373.140, and section 14.5 of this act, require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 373.030.

2. Any ordinance adopted pursuant to NRS 373.066, 373.0663 or 373.0667 must:

(a) Include a provision prohibiting the imposition of any penalties and interest for the failure to make any payments of any tax imposed by the ordinance which become due within the initial 6 months after the ordinance becomes effective. This provision must apply only to taxes imposed pursuant to NRS 373.066, 373.0663 or 373.0667 and must not apply to any tax imposed pursuant to any other ordinance.

(b) Require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

Sec. 5. NRS 373.067 is hereby amended to read as follows:

373.067 1. Any ordinance that imposes a tax pursuant to:

(a) The provisions of paragraph (a) of subsection 1 of NRS 373.066, paragraph (a) of subsection 1 of NRS 373.0663 or paragraph (a) of subsection 1 of NRS 373.0667 must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180.

(b) The provisions of paragraph (b) of subsection 1 of NRS 373.066, paragraph (b) of subsection 1 of NRS 373.0663 or paragraph (b) of subsection 1 of NRS 373.0667 must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190.

(c) The provisions of paragraph (c) of subsection 1 of NRS 373.066, paragraph (c) of subsection 1 of NRS 373.0663 or paragraph (c) of subsection 1 of NRS 373.0667 must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the

allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192.

(d) Any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~[(h)],~~ **(m)**, inclusive, of subsection 1 of NRS 373.0667 must, except as otherwise required by subsection 6 of NRS 373.140, **and section 15 of this act**, require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 373.030.

2. Any ordinance adopted pursuant to NRS 373.066, 373.0663 or 373.0667 must:

(a) Include a provision prohibiting the imposition of any penalties and interest for the failure to make any payments of any tax imposed by the ordinance which become due within the initial 6 months after the ordinance becomes effective. This provision must apply only to taxes imposed pursuant to NRS 373.066, 373.0663 or 373.0667 and must not apply to any tax imposed pursuant to any other ordinance.

(b) Require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

Sec. 6. NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066, paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (a) to ~~[(e)],~~ **(f)**, inclusive, of subsection 1 of NRS 373.0667, does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs ~~[(f), (g) and (h)]~~ **(g) to (m), inclusive**, of subsection 1 of NRS 373.0667, does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066, 373.0663 or 373.0667 is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

Sec. 7. NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of any county fuel tax:

1. Imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, **and section 1 of this act**, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter and chapter 277A of NRS. After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to the provisions of paragraph (a), (b) or (c) of subsection 1 of NRS 373.065, paragraph (a), (b) or (c) of subsection 1 of

NRS 373.066 or paragraph (a), (b) or (c) of subsection 1 of NRS 373.0663 which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

Sec. 7.5. NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of any county fuel tax:

1. Imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~(h)~~, **(m)**, inclusive, of subsection 1 of NRS 373.0667 which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, **and section 14.5 of this act**, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter and chapter 277A of NRS. After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to the provisions of paragraph (a), (b) or (c) of subsection 1 of NRS 373.065, paragraph (a), (b) or (c) of subsection 1 of NRS 373.066, paragraph (a), (b) or (c) of subsection 1 of NRS 373.0663 or paragraph (a), (b) or (c) of subsection 1 of NRS 373.0667 which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

Sec. 8. NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of any county fuel tax:

1. Imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~(h)~~, **(m)**, inclusive, of subsection 1 of NRS 373.0667 which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, **and section 15 of this act**, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter and chapter 277A of NRS. After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to the provisions of paragraph (a), (b) or (c) of subsection 1 of NRS 373.065, paragraph (a), (b) or (c) of subsection 1 of NRS 373.066, paragraph (a), (b) or (c) of subsection 1 of NRS 373.0663 or paragraph (a), (b) or (c) of subsection 1 of NRS 373.0667 which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

Sec. 9. NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, **and except as otherwise provided in section 1 of this act**, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any

taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663, that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

Sec. 9.5. NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, **and except as otherwise provided in section 14.5 of this act,** the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~[(h)]~~ **(m)**, inclusive, of subsection 1 of NRS 373.0667 that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

Sec. 10. NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, **and except as otherwise provided in section 15 of this act,** the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~[(h)]~~ **(m)**, inclusive, of subsection 1 of NRS 373.0667 that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

Sec. 11. NRS 373.131 is hereby amended to read as follows:

373.131 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to NRS 277A.210 may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions of this chapter and chapter 277A of NRS, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board or, in a county whose population is 100,000 or more, a commission, may, after the enactment of any ordinance authorized or required by the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~[(h)],~~ **(m)**, inclusive, of subsection 1 of NRS 373.0667, issue revenue bonds and other revenue securities, on the behalf and in the name of the county or the commission, as the case may be:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 and paragraphs (d) to ~~[(h)],~~ **(m)**, inclusive, of subsection 1 of NRS 373.0667 and, with respect to notes, warrants or interim debentures described in paragraphs (a) and (b) of subsection 6, the proceeds of bonds or interim debentures;

(b) Which must not be general obligations of the county or the commission or a charge on any real estate within the county; and

(c) Which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the fuel taxes designated in this chapter, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county or a commission as provided in subsection 2 is authorized to issue bonds or other securities without the necessity of their being authorized at any election in such manner and with such terms as provided in this chapter.

4. Subject to the provisions of this chapter and chapter 277A of NRS, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, or, in a county whose population is 100,000 or more,

a commission may, on behalf and in the name of the commission, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county or commission securities, and in connection with the undertaking or project, the board or the commission, as the case may be, may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the fuel taxes designated in this chapter except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of this chapter,

➔ all bonds and other securities issued pursuant to the provisions of this chapter must be payable solely from the proceeds of fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by this chapter. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 373.065, paragraphs (a) and (b) of subsection 1 of NRS 373.066, paragraphs (a) and (b) of subsection 1 of NRS 373.0663 and paragraphs (a) and (b) of subsection 1 of NRS 373.0667 may be used by the county for the payment of securities issued pursuant to the provisions of this chapter and may be pledged therefor. Such taxes may also be used by a commission in a county whose population is 100,000 or more for the payment of bonds or other securities issued pursuant to the provisions of this chapter and may be pledged therefor if the board of the county consents to such use. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing their issuance and any other instrument appertaining to the securities.

7. The ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing the

issuance of any bond or other revenue security under this section must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board or commission, as the case may be, of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified, if such bond or other security is issued by the county and not the commission.

8. Notwithstanding any other provision of this chapter, no commission has authority to issue bonds or other securities pursuant to this chapter unless the commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the commission. Any such interlocal agreement must include an acknowledgment of the authority of the commission to issue bonds and other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

Sec. 12. NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ordinances as authorized in NRS 277A.170 and 373.030, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from any county fuel tax imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 must first be submitted to the commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to NRS 277A.210, the commission shall evaluate it in terms of:

- (a) The priorities established by the plan;
- (b) The relation of the proposed work to other projects already constructed or authorized;
- (c) The relative need for the project in comparison with others proposed; and
- (d) The money available.

↪ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of any county fuel tax authorized pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663, except as otherwise ***provided in section 1 of this act, otherwise*** required by subsection 6 or to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other

securities or other obligations incurred under this chapter, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in NRS 373.131. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to NRS 277A.210.

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to NRS 277A.210, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

➡ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

6. The proceeds of a tax imposed pursuant to any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 must be expended in accordance with priorities for projects established in coordination and cooperation with the Department of Transportation.

Sec. 12.5. NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ordinances as authorized in NRS 277A.170 and 373.030, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from any county fuel tax imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection

1 of NRS 373.0663 or paragraphs (d) to ~~(h)~~, (m), inclusive, of subsection 1 of NRS 373.0667 must first be submitted to the commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to NRS 277A.210, the commission shall evaluate it in terms of:

- (a) The priorities established by the plan;
- (b) The relation of the proposed work to other projects already constructed or authorized;
- (c) The relative need for the project in comparison with others proposed; and
- (d) The money available.

➔ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of any county fuel tax authorized pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~(h)~~, (m), inclusive, of subsection 1 of NRS 373.0667, except as otherwise **provided in section 14.5 of this act, otherwise** required by subsection 6 or to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred under this chapter, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in NRS 373.131. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to NRS 277A.210.

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

- (a) Its relation to the regional plan for transportation established pursuant to NRS 277A.210, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

➔ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

6. The proceeds of a tax imposed pursuant to any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~[(h)]~~ **(m)**, inclusive, of subsection 1 of NRS 373.0667 must be expended in accordance with priorities for projects established in coordination and cooperation with the Department of Transportation.

Sec. 13. NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ordinances as authorized in NRS 277A.170 and 373.030, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from any county fuel tax imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~[(h)]~~ **(m)**, inclusive, of subsection 1 of NRS 373.0667 must first be submitted to the commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to NRS 277A.210, the commission shall evaluate it in terms of:

(a) The priorities established by the plan;

(b) The relation of the proposed work to other projects already constructed or authorized;

(c) The relative need for the project in comparison with others proposed; and

(d) The money available.

➔ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of any county fuel tax authorized pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~[(h)]~~ **(m)**, inclusive, of subsection 1 of NRS 373.0667, except as otherwise **provided in section 15 of this act, otherwise** required by subsection 6 or to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred under this chapter, and other

contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in NRS 373.131. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to NRS 277A.210.

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to NRS 277A.210, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

↪ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

6. The proceeds of a tax imposed pursuant to any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 or paragraphs (d) to ~~[(h)]~~ (m), inclusive, of subsection 1 of NRS 373.0667 must be expended in accordance with priorities for projects established in coordination and cooperation with the Department of Transportation.

Sec. 14. NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances, or the resolution or resolutions, providing for the issuance of any bonds or other securities issued under this chapter payable from the receipts from the fuel excise taxes designated in this chapter may at the discretion of the board or, in the case of bonds or other securities issued by a commission, the commission, in addition to covenants and other provisions authorized in the Local Government Securities Law,

contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 and paragraphs (d) to ~~[(h),] (m)~~, inclusive, of subsection 1 of NRS 373.0667, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued under this chapter.

2. If the board or, in the case of bonds or other securities issued by a commission, the commission, determines in any ordinance or resolution authorizing the issuance of any bonds or other securities under this chapter that the proceeds of the taxes levied and collected pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.0663 and paragraphs (d) to ~~[(h),] (m)~~, inclusive, of subsection 1 of NRS 373.0667 are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board or, in the case of bonds or other securities issued by a commission, the commission with the consent of the board as provided in subsection 6 of NRS 373.131, may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance or resolution under this chapter by a pledge of and the creation of a lien upon not only the proceeds of any fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of NRS 373.131, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any fuel so long as any bonds or other securities issued under this chapter remain outstanding and are not limited to any type or types of fuel in use when the bonds or other securities are issued.

Sec. 14.5. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 373 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law, money collected from the annual increases in the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 of NRS ~~373.0663~~ **373.0667** and imposed by the ordinance ~~on or after November 8, 2016,~~ **January 1, 2017,** must be deposited with the State Treasurer to the credit of the State Highway Fund,

accounted for separately in the State Highway Fund and used by the Department of Transportation only to finance projects for the construction, maintenance and repair of state highways in the county in which the tax is collected.

Sec. 15. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 373 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any other provision of law, money collected from ~~the~~ :

1. ~~The~~ annual increases in the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 of NRS 373.0663 and imposed by the ordinance after November 8, 2016 ~~to~~ ; **or**

2. The annual increases in the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 of NRS 373.0667 and imposed by the ordinance on or after January 1, 2017,

~~must~~ must be deposited with the State Treasurer to the credit of the State Highway Fund, accounted for separately in the State Highway Fund and used by the Department of Transportation only to finance projects for the construction, maintenance and repair of state highways in the county in which the tax is collected.

Sec. 16. Section 14 of chapter 540, Statutes of Nevada 2013, at page 3587, is hereby amended to read as follows:

Sec. 14. ~~14.1~~ This section and sections 1, 1.1, 1.7, 1.75, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 11.5 of this act become effective upon passage and approval.

~~2.—Section 12 of this act becomes effective on October 1, 2013, if and only if a board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013.~~

~~3.—Section 13 of this act becomes effective on October 1, 2013, if and only if a board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013.~~

~~4.—Sections 1.2, 1.5, 3.2 and 8.2 of this act become effective on January 1, 2017, if:~~

~~(a) A board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013;~~

~~(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 13 of this act is approved by a majority of the registered voters in this State voting on the question; and~~

~~(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 13 of this act is not approved by a majority of the registered voters in every county in this State voting on the question.~~

~~5.—Sections 1.2, 1.3, 1.5, 1.8, 1.85, 2.3, 3.1, 4.3, 5.3, 6.3, 7.3, 8.1, 9.3, 10.3 and 11.1 of this act become effective on January 1, 2017, if:~~

~~—(a) A board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013;~~

~~—(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 13 of this act is approved by a majority of the registered voters in this State voting on the question; and~~

~~—(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 13 of this act is approved by a majority of the registered voters in any county in this State voting on the question.~~

~~—6. Sections 1.3, 1.8, 1.85, 2.3, 3.3, 4.3, 5.3, 6.3, 7.3, 8.3, 9.3, 10.3 and 11.1 of this act become effective on January 1, 2017, if:~~

~~—(a) A board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013;~~

~~—(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 13 of this act is not approved by a majority of the registered voters in this State voting on the question; and~~

~~—(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 13 of this act is approved by a majority of the registered voters in any county in this State voting on the question.~~

~~—7. Sections 1.2, 1.5, 3.7 and 8.7 of this act become effective on January 1, 2017, if:~~

~~—(a) A board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013;~~

~~—(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 12 of this act is approved by a majority of the registered voters in this State voting on the question; and~~

~~—(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 12 of this act is not approved by a majority of the registered voters in every county in this State voting on the question.~~

~~—8. Sections 1.2, 1.3, 1.5, 1.9, 1.95, 2.7, 3.5, 4.7, 5.7, 6.7, 7.7, 8.5, 9.7, 10.7 and 11.3 of this act become effective on January 1, 2017, if:~~

~~—(a) A board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013;~~

~~—(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 12 of this act is approved by a majority of the registered voters in this State voting on the question; and~~

~~—(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 12 of this act is~~

approved by a majority of the registered voters in any county in this State voting on the question.

~~9. Sections 1.3, 1.9, 1.95, 2.7, 3.9, 4.7, 5.7, 6.7, 7.7, 8.9, 9.7, 10.7 and 11.3 of this act become effective on January 1, 2017, if:~~

~~—(a) A board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013;~~

~~—(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 12 of this act is not approved by a majority of the registered voters in this State voting on the question; and~~

~~—(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 12 of this act is approved by a majority of the registered voters in any county in this State voting on the question.~~

~~10. Sections 1.1, 1.7, 1.75, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of this act expire by limitation on October 1, 2013, if a board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013.]~~

Sec. 17. A question must be placed on the ballot at the general election on November 8, 2016, in each county in this State other than Clark County and Washoe County, which asks the voters in the county whether to authorize the board of county commissioners of the county to impose, for the period beginning on January 1, 2017, and ending on December 31, 2026, the taxes authorized by NRS 373.0667, as amended by section 3 of this act, and the additional annual increases in those taxes authorized by that section.

Sec. 18. 1. NRS 373.0665 and 373.165 are hereby repealed.

2. Sections 1.9, 1.95, 2.7, 3.1, 3.2, 3.5, 3.7, 3.9, 4.7, 5.7, 6.7, 7.7, 8.1, 8.2, 8.5, 8.7, 8.9, 9.7, 10.7, 11.3, 12 and 13 of chapter 540, Statutes of Nevada 2013, at pages 3549, 3550, 3552, 3554, 3555, 3557, 3558, 3561, 3562, 3563, 3564, 3565, 3567, 3569, 3570, 3571, 3576, 3581, 3584 and 3586, are hereby repealed.

Sec. 19. Sections 1.3, 1.8, 1.85, 2.3, 3.3, 4.3, 5.3, 6.3, 7.3, 8.3, 9.3, 10.3 and 11.1 of chapter 540, Statutes of Nevada 2013, become effective on January 1, 2017, if the question placed on the ballot at the general election on November 8, 2016, pursuant to section 17 of this act is approved by a majority of the registered voters in any county in this State voting on the question.

Sec. 20. 1. This section and sections ~~1, 2, 4, 7, 9, 12~~ 2 and 16 to 19, inclusive, of this act become effective upon passage and approval.

2. **Sections 1, 4, 7, 9 and 12 of this act become effective on November 9, 2016, if the question placed on the ballot at the general election on November 8, 2016, pursuant to NRS 373.0663, as amended by section 2 of this act, is approved by a majority of the registered voters in Clark County voting on the question.**

3. **Sections 4.5, 6, 7.5, 9.5, 11, 12.5, 14 and 14.5 of this act become effective on January 1, 2017, if:**

(a) The question placed on the ballot at the general election on November 8, 2016, pursuant to NRS 373.0663, as amended by section 2 of this act, is not approved by a majority of the registered voters in Clark County voting on the question; and

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to section 17 of this act is approved by a majority of the registered voters in any county in this State voting on the question.

4. Sections 3, 5, 6, 8, 10, 11, 13, 14 and 15 of this act become effective on January 1, 2017, if ~~the~~ **the**:

(a) The question placed on the ballot at the general election on November 8, 2016, pursuant to NRS 373.0663, as amended by section 2 of this act, is approved by a majority of the registered voters in Clark County voting on the question; and

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to section 17 of this act is approved by a majority of the registered voters in any county in this State voting on the question.

TEXT OF REPEALED SECTIONS

373.0665 Additional taxes in all counties: Impositions; rates and annual increases; money received credited to State Highway Fund.

1. In addition to any other tax imposed pursuant to chapter 365 or 366 of NRS:

(a) There is hereby imposed:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in this State in an amount equal to the product obtained by multiplying 18.455 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and

(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.455 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(b) There is hereby imposed:

(1) An excise tax on each gallon of special fuel that consists of an emulsion of water-phased hydrocarbon fuel sold in this State in an amount equal to the product obtained by multiplying 19 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and

(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 19 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(c) There is hereby imposed:

(1) An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in this State in an amount equal to the product obtained by multiplying 22 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and

(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 22 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(d) There is hereby imposed:

(1) An excise tax on each gallon of special fuel that consists of compressed natural gas sold in this State in an amount equal to the product obtained by multiplying 21 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and

(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 21 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(e) There is hereby imposed:

(1) An excise tax on each gallon of special fuel sold in this State, other than any special fuel described in paragraph (b), (c) or (d), in an amount equal to the product obtained by multiplying 27.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and

(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal

year following the fiscal year in which that tax becomes effective, in the amount determined by adding 27.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

2. The applicable percentage for the taxes imposed pursuant to this section must be the same percentage for each tax imposed pursuant to this section. Except as otherwise provided in subsection 3, the Legislature may amend the applicable percentage from time to time, but any such amendment must not become effective earlier than 90 days after the date of the action by the Legislature amending the applicable percentage. Except as otherwise provided in NRS 373.165, the applicable percentage must not be amended to reduce the applicable percentage at any time that bonds are outstanding which are secured by the taxes imposed pursuant to this section.

3. For the period:

(a) Beginning on January 1, 2017, and ending on December 31, 2026, no further action by the Legislature is necessary to effectuate the annual increases in the taxes imposed by this section.

(b) Beginning on January 1, 2027, the annual increases in the taxes imposed by this section must not be effectuated unless a question is placed on the ballot at the general election on November 3, 2026, which asks the voters in this State whether to authorize the Legislature to impose, for the period beginning on January 1, 2027, the increases authorized by this section in the taxes imposed by this section and the question is approved by a majority of the registered voters in this State voting on the question. If the question is approved by a majority of such voters, no further action by the Legislature is necessary to effectuate the annual increases in the taxes imposed by this section. If the question is not approved by a majority of such voters, the Legislature shall not impose any additional annual increases in the taxes imposed by this section after November 3, 2026, but any annual increases in the taxes imposed by this section in effect on or before November 3, 2026, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by the taxes imposed by this section.

4. All money received from the taxes imposed pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. As used in this section:

(a) "Adjusted average highway and street construction inflation index" means:

(1) For the fiscal year in which this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage,

the remainder obtained by subtracting the applicable percentage from the average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero; and

(2) For each fiscal year following the fiscal year in which this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the adjusted average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero.

(b) “Applicable percentage” means the lesser of 7.8 percent or the percentage specified by the Legislature in any act amending the applicable percentage of a tax imposed pursuant to this section.

(c) “Average highway and street construction inflation index” means for a fiscal year the average percentage increase in the highway and street construction inflation index for the 10 calendar years immediately preceding the beginning of that fiscal year.

(d) “Highway and street construction inflation index” means:

(1) The Producer Price Index for Highway and Street Construction until that index ceased to be published; and

(2) The Producer Price Index for Other Nonresidential Construction thereafter or, if that index ceases to be published by the United States Department of Labor, the published index that most closely measures inflation in the costs of highway and street construction, as determined by the Legislature.

(e) “Special fuel” has the meaning ascribed to it in NRS 366.060.

373.165 Pledge of continuing increases in taxes imposed pursuant to NRS 373.0665.

1. Except as otherwise provided in subsection 2, any continuing increases in any taxes imposed pursuant to NRS 373.0665 must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations which are secured by the taxes imposed pursuant to NRS 373.0665 are issued or incurred, but the taxes imposed pursuant to NRS 373.0665 that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.

2. At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to NRS 373.0665, the Legislature may,

except as otherwise provided in paragraph (b) of subsection 3 of NRS 373.0665:

(a) Continue the pledge of the increase in taxes imposed pursuant to NRS 373.0665 beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to NRS 373.0665 are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the action by the Legislature authorized by this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to NRS 373.0665 have been paid in full.

(b) Specify a different applicable percentage, including an applicable percentage of zero, but:

(1) The applicable percentage must not exceed 7.8 percent;

(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of any action of the Legislature authorized by this subsection; and

(3) The effective date of any action by the Legislature reducing the applicable percentage must not be sooner than the later of:

(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to NRS 373.0665 are issued or incurred; or

(II) June 30 of the fiscal year that is 5 full fiscal years after the date of any action by the Legislature authorized by paragraph (a).

3. As used in this section, “applicable percentage” has the meaning ascribed to it in paragraph (b) of subsection 5 of NRS 373.0665.

Assemblyman Armstrong moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 193.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 556.

AN ACT relating to criminal procedure; ~~revising provisions governing the waiver of a preliminary examination;~~ **revising provisions relating to the introduction of evidence at a preliminary examination or grand jury proceeding; revising the provisions governing the use of a witness's affidavit at a preliminary examination or grand jury proceeding; revising provisions relating to the use of audiovisual technology to present live witness testimony at a preliminary examination or grand jury proceeding; revising provisions relating to a finding of probable cause at a preliminary hearing or grand jury proceeding; eliminating the ability for a defendant to submit certain evidentiary statements to a grand jury; making various changes concerning revising provisions relating to notice given to a person whose indictment is being considered by a grand jury; ~~revising the provisions pertaining to the~~**

~~filing of trial related motions in criminal proceedings;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law ~~authorizes a defendant to waive his or her right to a preliminary examination to determine whether probable cause exists to hold the defendant for trial for an alleged criminal offense. If the defendant waives the preliminary examination, the defendant is bound over for trial.~~ **sets forth the requirements for conducting a preliminary examination.** (NRS 171.196) **Section 1** of this bill ~~requires a magistrate to ask the defendant whether he or she is waiving the preliminary examination in order to face the original charges or as part of a plea agreement. If the waiver is part of a plea agreement, section 1 further requires that: (1) the magistrate hold the defendant to answer all the charges; (2) the parties execute a written plea agreement; (3) the defendant is pleading guilty to the criminal charges contained in the information; and (4) the magistrate ensures that the defendant entered into the plea agreement voluntarily and with knowledge of the consequences of his or her plea. If the magistrate accepts the plea agreement, section 1 further requires the case to be referred to the Division of Parole and Probation of the Department of Public Safety to make a presentence investigation and set a trial date, unless an exception applies. Section 1 also limits evidence admitted in a preliminary examination to evidence relevant to the existence of probable cause and~~ **authorizes the use of certain** hearsay evidence ~~to be used~~ in ~~such~~ **a preliminary examination, under certain circumstances.**

~~Under existing law, if a witness resides outside of Nevada or more than 100 miles from where the preliminary examination is held, a district attorney may use the witness's affidavit at a preliminary hearing or a grand jury proceeding if it is necessary to establish: (1) property ownership; and (2) that the defendant did not have permission to enter or possess the property. (NRS 171.197, 172.137) Sections 2 and 6 of this bill require that a witness's affidavit offered at a preliminary hearing or grand jury proceeding may also provide an opinion as to the value of the real or personal property at issue.~~ Existing law ~~also~~ allows a witness to testify at a preliminary examination or before a grand jury through the use of audiovisual technology under certain circumstances by filing a request, subject to an objection by the opposing party and court approval, before the preliminary examination or grand jury proceeding. (NRS 171.1975, 172.138) **Sections 3 and 7** of this bill require the court to allow a witness to testify at a preliminary examination or before a grand jury through the use of audiovisual technology under certain circumstances.

Existing law ~~requires a magistrate to hold a defendant to answer in district court or a grand jury to find an indictment if the evidence offered at the preliminary examination or grand jury proceeding shows that there is probable cause to believe the defendant committed the offense. (NRS 171.206, 172.155) Existing law also~~ sets forth the types of evidence a grand jury can receive. (NRS 172.135) **Section 5** of this bill **: (1) allows certain** hearsay evidence to be offered before a grand jury ~~, and sections 4 and 9 of this bill allow a finding~~

of probable cause to be based solely on hearsay evidence,] in certain circumstances; and (2) provides that a statement made by a witness at any time that is inconsistent with the testimony of the witness before the grand jury may be presented to the grand jury as evidence.

~~[At a grand jury proceeding, existing law authorizes a defendant to submit a statement to the grand jury providing whether a preliminary hearing was held and, if so, that the evidence presented at the preliminary hearing was considered insufficient to warrant holding the defendant for trial. (NRS 172.145) Section 8 of this bill removes the provision which authorizes the defendant to submit such a statement.] Existing law [also] requires that a district attorney or peace officer serve reasonable notice upon a person whose indictment is being considered by a grand jury. (NRS 172.241) Section 10 of this bill authorizes a person to testify before the grand jury if his or her notice of the proceeding was not adequate and requires the grand jury to redeliberate on the indictment if the person does testify.~~

~~[Section 11 of this bill provides that in a criminal prosecution of an offense that is a gross misdemeanor or felony, any motion on a trial-related issue may be made only in the district court and, therefore, a justice court may not hear a motion to suppress evidence before or during the preliminary examination for such an offense. In a criminal prosecution of an offense that is a misdemeanor, section 11 provides that any motion on a trial-related issue may be made only in the justice court.]~~

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

Section 1. NRS 171.196 is hereby amended to read as follows:

171.196 1. If an offense is not triable in the Justice Court, the defendant must not be called upon to plead. If the defendant waives preliminary examination, the magistrate shall immediately [address the defendant personally to determine if the defendant is waiving his or her preliminary examination in order to face the original charges in the criminal complaint or as part of a plea agreement. If the defendant is waiving the preliminary examination to face the original charges, the magistrate shall] hold the defendant to answer in the district court. [If the defendant is waiving the preliminary examination as part of a plea agreement:

~~—(a) The magistrate shall hold the defendant to answer on all charges;~~

~~—(b) The parties shall execute a written plea agreement in substantially the form prescribed in NRS 174.062;~~

~~—(c) The criminal complaint serves as the information if the defendant is pleading guilty to the charges in the criminal complaint, except if the defendant is pleading guilty to different charges, an amended criminal complaint must be filed to serve as the information; and~~

~~—(d) The magistrate shall address the defendant personally to determine if the defendant entered into the plea agreement freely and voluntarily with understanding of the nature of the charges and consequences of the plea.]~~

2. ~~If a magistrate accepts a plea agreement:~~

~~(a) Except as otherwise provided in paragraph (b), the magistrate must request the Division of Parole and Probation of the Department of Public Safety to make a presentence investigation and report; and~~

~~(b) A sentencing date must be set in district court, unless:~~

~~(1) The defendant is pleading guilty to a gross misdemeanor and the parties are stipulating to waive the presentence investigation and report by requesting the imposition of a sentence by the magistrate; or~~

~~(2) The parties are stipulating to waive the presentence investigation and report by using a previously prepared report of a presentence investigation.~~

~~3. If the defendant does not waive examination, pursuant to subsection 4.~~ the magistrate shall hear the evidence within 15 days, unless for good cause shown the magistrate extends such time. Unless the defendant waives counsel, reasonable time must be allowed for counsel to appear.

3. ~~4.~~ Except as otherwise provided in this subsection, if the magistrate postpones the examination at the request of a party, the magistrate may order that party to pay all or part of the costs and fees expended to have a witness attend the examination. The magistrate shall not require a party who requested the postponement of the examination to pay for the costs and fees of a witness if:

(a) It was not reasonably necessary for the witness to attend the examination; or

(b) The magistrate ordered the extension pursuant to subsection 4. ~~5.~~

4. ~~5.~~ If application is made for the appointment of counsel for an indigent defendant, the magistrate shall postpone the examination until:

(a) The application has been granted or denied; and

(b) If the application is granted, the attorney appointed or the public defender has had reasonable time to appear.

5. ~~6. At the examination, only evidence that is relevant to the existence of probable cause may be admitted. Any party may cross-examine witnesses, but may not object to evidence offered on the ground that it was unlawfully acquired or that it is hearsay.~~ The defendant may cross-examine witnesses against him or her and may introduce evidence ~~pursuant to this subsection~~ in his or her own behalf.

~~7.~~ 6. Hearsay evidence consisting of a statement made by the alleged victim of the offense is admissible at a preliminary examination conducted pursuant to this section.

~~8. Except as otherwise provided in this title, the defendant must be present at his or her preliminary hearing.~~

~~9. The magistrate may not entertain a motion to suppress based on evidence offered pursuant to this section, only if the defendant is charged with one or more of the following offenses:~~

(a) A sexual offense committed against a child who is under the age of 16 years if the offense is punishable as a felony. As used in this paragraph, "sexual offense" has the meaning ascribed to it in NRS 179D.097.

(b) Abuse of a child pursuant to NRS 200.508 if the offense is committed against a child who is under the age of 16 years and the offense is punishable as a felony.

(c) An act which constitutes domestic violence pursuant to NRS 33.018, which is punishable as a felony and which resulted in substantial bodily harm to the alleged victim.

Sec. 2. ~~NRS 171.197 is hereby amended to read as follows:~~

~~171.197 1. If a witness resides outside this State or more than 100 miles from the place of a preliminary examination, the witness's affidavit may be used at the preliminary examination if it [is]:~~

~~(a) Offers an opinion as to the value of real or personal property; or~~

~~(b) Is necessary for the district attorney to establish as an element of any offense that:~~

~~[(a)] (1) The witness was the owner, possessor or occupant of real or personal property; and~~

~~[(b)] (2) The defendant did not have the permission of the witness to enter, occupy, possess or control the real or personal property of the witness.~~

~~2. If a financial institution does not maintain any principal or branch office within this State or if a financial institution that maintains a principal or branch office within this State does not maintain any such office within 100 miles of the place of a preliminary examination, the affidavit of a custodian of the records of the financial institution or the affidavit of any other qualified person of the financial institution may be used at the preliminary examination if it is necessary for the district attorney to establish as an element of any offense that:~~

~~(a) When a check or draft naming the financial institution as drawee was drawn or passed, the account or purported account upon which the check or draft was drawn did not exist, was closed or held insufficient money, property or credit to pay the check or draft in full upon its presentation; or~~

~~(b) When a check or draft naming the financial institution as drawee was presented for payment to the financial institution, the account or purported account upon which the check or draft was drawn did not exist, was closed or held insufficient money, property or credit to pay the check or draft in full.~~

~~3. The district attorney shall provide either written or oral notice to the defendant, not less than 10 days before the scheduled preliminary examination, that the district attorney intends to use an affidavit described in this section at the preliminary examination.~~

~~4. If, at or before the time of the preliminary examination, the defendant establishes that:~~

~~(a) There is a substantial and bona fide dispute as to the facts in an affidavit described in this section; and~~

~~(b) It is in the best interests of justice that the person who signed the affidavit be cross examined;~~

~~the magistrate may order the district attorney to produce the person who signed the affidavit and may continue the examination for any time it deems reasonably necessary in order to receive such testimony.~~ **(Deleted by amendment.)**

Sec. 3. NRS 171.1975 is hereby amended to read as follows:

171.1975 1. If a witness resides more than ~~[500]~~ **100** miles from the place of a preliminary examination, ~~he or~~ is unable to attend the preliminary examination because of a medical condition ~~or~~ **or if good cause otherwise exists**, ~~a party may, not later than 14 days before the preliminary examination, file a request that~~ the magistrate **must** allow the witness to testify at the preliminary examination through the use of audiovisual technology. ~~A party who requests that the magistrate allow a witness to testify through the use of audiovisual technology shall provide written notice of the request to the opposing party at or before the time of filing the request.~~

2. ~~[Not later than 7 days after receiving notice of a request that the magistrate allow a witness to testify at the preliminary examination through the use of audiovisual technology, the opposing party may file an objection to the request. If the opposing party fails to file a timely objection to the request, the opposing party shall be deemed to have consented to the granting of the request.~~

~~3. Regardless of whether or not the opposing party files an objection to a request that the magistrate allow a witness to testify at the preliminary examination through the use of audiovisual technology, the magistrate may allow the witness to testify at the preliminary examination through the use of audiovisual technology only if the magistrate finds that good cause exists to grant the request based upon the specific facts and circumstances of the case.~~

~~4.] If [the magistrate allows] a witness [to testify] testifies at the preliminary examination through the use of audiovisual technology:~~

(a) The testimony of the witness must be ~~[-~~

~~(1) Taken by a certified videographer who is in the physical presence of the witness. The certified videographer shall sign a written declaration, on a form provided by the magistrate, which states that the witness does not have in his or her possession any notes or other materials to assist in the witness's testimony.~~

~~(2) Recorded and preserved through the use of a videotape or other means of audiovisual recording technology.~~

~~(3) Transcribed] transcribed by a certified court reporter [-] ; and~~

(b) Before giving testimony, the witness must be sworn and must sign a written declaration, on a form provided by the magistrate, which acknowledges that the witness understands that he or she is subject to the jurisdiction of the courts of this state and may be subject to criminal prosecution for the commission of any crime in connection with his or her testimony, including, without limitation, perjury, and that the witness consents to such jurisdiction.

~~[(c) During the preliminary examination, the witness must not be asked to identify the defendant, but the witness may be asked to testify regarding the~~

facts and circumstances surrounding any previous identification of the defendant.

—(d) The original recorded testimony of the witness must be filed with the district court, and copies of the recorded testimony of the witness must be provided to each party.

—(e) The testimony of the witness may not be used by any party upon the trial of the cause or in any proceeding therein in lieu of the direct testimony of the witness, but the court may allow the testimony of the witness to be used for any other lawful purpose.

—5.} 3. Audiovisual technology used pursuant to this section must ensure that the witness may be:

(a) Clearly heard and seen; and

(b) Examined and cross-examined.

~~{6.}~~ 4. As used in this section, “audiovisual technology” includes, without limitation, closed-circuit video and videoconferencing.

Sec. 4. ~~{NRS 171.206 is hereby amended to read as follows:~~

~~171.206 1. If from the evidence it appears to the magistrate that there is probable cause to believe that an offense has been committed and that the defendant has committed it, or the defendant has pleaded guilty or guilty but mentally ill, the magistrate shall forthwith hold the defendant to answer in the district court; otherwise the magistrate shall discharge the defendant. The magistrate shall admit the defendant to bail as provided in this title. After concluding the proceeding the magistrate shall transmit forthwith to the clerk of the district court all papers in the proceeding and any bail.~~

~~2. A finding of probable cause pursuant to subsection 1 may rest solely on hearsay evidence. (Deleted by amendment.)~~

Sec. 5. NRS 172.135 is hereby amended to read as follows:

172.135 1. In the investigation of a charge, for the purpose of either presentment or indictment, the grand jury can receive no other evidence than such as is given by witnesses produced and sworn before them or furnished by legal documentary evidence or by the deposition of witnesses taken as provided in this title, except that the grand jury may receive any of the following:

(a) An affidavit or declaration from an expert witness or other person described in NRS 50.315 in lieu of personal testimony or a deposition.

(b) An affidavit of an owner, possessor or occupant of real or personal property or other person described in NRS 172.137 in lieu of personal testimony or a deposition.

2. ~~{The}~~ Except as otherwise provided in this subsection, the grand jury can receive none but legal evidence, and the best evidence in degree, to the exclusion of hearsay or secondary evidence. The grand jury can receive hearsay evidence consisting of a statement made by the alleged victim of an offense if the defendant is alleged to have committed one or more of the following offenses:

(a) A sexual offense committed against a child who is under the age of 16 years if the offense is punishable as a felony. As used in this paragraph, “sexual offense” has the meaning ascribed to it in NRS 179D.097.

(b) Abuse of a child pursuant to NRS 200.508 if the offense is committed against a child who is under the age of 16 years and the offense is punishable as a felony.

(c) An act which constitutes domestic violence pursuant to NRS 33.018, which is punishable as a felony and which resulted in substantial bodily harm to the alleged victim.

3. A statement made by a witness at any time that is inconsistent with the testimony of the witness before the grand jury may be presented to the grand jury as evidence.

Sec. 6. ~~{NRS 172.137 is hereby amended to read as follows:~~

~~172.137 1. If a witness resides outside this State or more than 100 miles from the place of a grand jury proceeding, the witness’s affidavit may be used at the proceeding if it [is]:~~

~~— (a) Offers an opinion as to the value of the real or personal property; or~~

~~— (b) Is necessary for the district attorney to establish as an element of any offense that:~~

~~— [(a)] (1) The witness was the owner, possessor or occupant of real or personal property; and~~

~~— [(b)] (2) The defendant did not have the permission of the witness to enter, occupy, possess or control the real or personal property of the witness.~~

~~2. If a financial institution does not maintain any principal or branch office within this State or if a financial institution that maintains a principal or branch office within this State does not maintain any such office within 100 miles of the place of a grand jury proceeding, the affidavit of a custodian of the records of the financial institution or the affidavit of any other qualified person of the financial institution may be used at the proceeding if it is necessary for the district attorney to establish as an element of any offense that:~~

~~— (a) When a check or draft naming the financial institution as drawee was drawn or passed, the account or purported account upon which the check or draft was drawn did not exist, was closed or held insufficient money, property or credit to pay the check or draft in full upon its presentation; or~~

~~— (b) When a check or draft naming the financial institution as drawee was presented for payment to the financial institution, the account or purported account upon which the check or draft was drawn did not exist, was closed or held insufficient money, property or credit to pay the check or draft in full.~~

~~3. If the defendant has been subpoenaed to appear before the grand jury or if the defendant has requested to testify pursuant to NRS 172.241, the district attorney shall provide either written or oral notice to the defendant, within a reasonable time before the scheduled proceeding of the grand jury, that an affidavit described in this section will be used at the proceeding.~~

~~4. If, at or before the time of the proceeding, the defendant establishes that:~~

~~— (a) There is a substantial and bona fide dispute as to the facts in an affidavit described in this section; and~~

~~— (b) It is in the best interests of justice that the person who signed the affidavit be examined or cross-examined;~~

~~→ the grand jury may request that the district attorney produce the person who signed the affidavit and may continue the proceeding for any time it deems reasonably necessary in order to receive such testimony.} (Deleted by amendment.)~~

Sec. 7. NRS 172.138 is hereby amended to read as follows:

172.138 1. If a witness resides more than ~~{500}~~ **100** miles from the place of a grand jury proceeding, ~~{or}~~ is unable to attend the grand jury proceeding because of a medical condition ~~{, upon the request of the district attorney,}~~ **or if good cause otherwise exists**, the district judge supervising the proceedings of the grand jury ~~{may}~~ **must** allow a witness to testify before the grand jury through the use of audiovisual technology.

2. ~~{The district judge supervising the proceedings of the grand jury may allow a witness to testify before the grand jury through the use of audiovisual technology only if the district judge finds that good cause exists to grant the request based upon the specific facts and circumstances of the grand jury proceeding.~~

~~—3.} If {the district judge supervising the proceedings of the grand jury allows} a witness {to testify} **testifies** at the grand jury proceeding through the use of audiovisual technology:~~

(a) The testimony of the witness must be ~~{:~~

~~— (1) Taken by a certified videographer who is in the physical presence of the witness. The certified videographer shall sign a written declaration, on a form provided by the district judge, which states that the witness does not possess any notes or other materials to assist in the witness's testimony.~~

~~— (2) Recorded and preserved through the use of a videotape or other means of audiovisual recording technology.~~

~~— (3) Transcribed} **transcribed** by a certified court reporter appointed pursuant to NRS 172.215 in accordance with the provisions of NRS 172.225 {;} and~~

(b) Before giving testimony, the witness must be sworn and must sign a written declaration, on a form provided by the district judge, which acknowledges that the witness understands that he or she is subject to the jurisdiction of the courts of this state and may be subject to criminal prosecution for the commission of any crime in connection with his or her testimony, including, without limitation, perjury, and that the witness consents to such jurisdiction.

~~{(c) The original recorded testimony of the witness must be delivered to the certified court reporter.~~

~~— (d) The testimony of the witness may not be used by any party upon the trial of the cause or in any proceeding therein in lieu of the direct testimony of~~

the witness, but the court may allow the testimony of the witness to be used for any other lawful purpose.

~~4.]~~ 3. Audiovisual technology used pursuant to this section must ensure that the witness may be:

- (a) Clearly heard and seen; and
- (b) Examined.

~~{5.]~~ 4. As used in this section, “audiovisual technology” includes, without limitation, closed-circuit video and videoconferencing.

Sec. 8. ~~{NRS 172.145 is hereby amended to read as follows:~~

~~172.145 1. The grand jury is not bound to hear evidence for the defendant. [, except that the defendant is entitled to submit a statement which the grand jury must receive providing whether a preliminary hearing was held concerning the matter and, if so, that the evidence presented at the preliminary hearing was considered insufficient to warrant holding the defendant for trial.] It is their duty, however, to weigh all evidence submitted to them, and when they have reason to believe that other evidence within their reach will explain away the charge, they shall order that evidence to be produced, and for that purpose may require the district attorney to issue process for the witnesses.~~

~~2. If the district attorney is aware of any evidence which will explain away the charge, the district attorney shall submit it to the grand jury.~~

~~3. The provisions of this section do not require the district attorney to submit to the grand jury exculpatory statements made by the defendant, unless such statements are included in a single statement which contains inculpatory statements submitted to the grand jury by the district attorney.~~

~~4. The grand jury may invite any person, without process, to appear before the grand jury to testify.] (Deleted by amendment.)~~

Sec. 9. ~~{NRS 172.155 is hereby amended to read as follows:~~

~~172.155 1. The grand jury ought to find an indictment when all the evidence before them, taken together, establishes probable cause to believe that an offense has been committed and that the defendant has committed it.~~

~~2. A finding of probable cause pursuant to subsection 1 may rest solely on hearsay evidence.~~

~~3. The defendant may object to the sufficiency of the evidence to sustain the indictment only by application for a writ of habeas corpus.] (Deleted by amendment.)~~

Sec. 10. NRS 172.241 is hereby amended to read as follows:

172.241 1. A person whose indictment the district attorney intends to seek or the grand jury on its own motion intends to return, but who has not been subpoenaed to appear before the grand jury, may testify before the grand jury if the person requests to do so and executes a valid waiver in writing of the person’s constitutional privilege against self-incrimination.

2. A district attorney or a peace officer shall serve reasonable notice upon a person whose indictment is being considered by a grand jury unless the court determines that adequate cause exists to withhold notice. The notice is adequate if it:

(a) Is given to the person, the person's attorney of record or an attorney who claims to represent the person and gives the person not less than 5 judicial days to submit a request to testify to the district attorney; and

(b) Advises the person that the person may testify before the grand jury only if the person submits a written request to the district attorney and includes an address where the district attorney may send a notice of the date, time and place of the scheduled proceeding of the grand jury.

3. The district attorney may apply to the court for a determination that adequate cause exists to withhold notice if the district attorney:

(a) Determines that the notice may result in the flight of the person whose indictment is being considered, on the basis of:

(1) A previous failure of the person to appear in matters arising out of the subject matter of the proposed indictment;

(2) The fact that the person is a fugitive from justice arising from charges in another jurisdiction;

(3) Outstanding local warrants pending against the person; or

(4) Any other objective factor;

(b) Determines that the notice may endanger the life or property of other persons; or

(c) Is unable, after reasonable diligence, to notify the person.

4. If a district attorney applies to the court for a determination that adequate cause exists to withhold notice, the court shall hold a closed hearing on the matter. Upon a finding of adequate cause, the court may order that no notice be given.

5. *If notice required to be served upon a person pursuant to subsection 2 is not adequate, the person must be given the opportunity to testify before the grand jury. If the person testifies pursuant to this subsection, the grand jury must be instructed to deliberate again on all the charges contained in the indictment following such testimony.*

Sec. 11. ~~INRS 174.125 is hereby amended to read as follows:~~

~~174.125 1. All motions in a criminal prosecution to suppress evidence, for a transcript of former proceedings, for a preliminary hearing, for severance of joint defendants, for withdrawal of counsel, and all other motions which by their nature, if granted, delay or postpone the time of trial must be made before trial, unless an opportunity to make such a motion before trial did not exist or the moving party was not aware of the grounds for the motion before trial.~~

~~2. In any judicial district in which a single judge is provided:~~

~~(a) All motions subject to the provisions of subsection 1 must be made in writing, with not less than 10 days' notice to the opposite party unless good cause is shown to the court at the time of trial why the motion could not have been made in writing upon the required notice.~~

~~(b) The court may, by written order, shorten the notice required to be given to the opposite party.~~

~~3. In any judicial district in which two or more judges are provided:~~

~~— (a) All motions subject to the provisions of subsection 1 must be made in writing not less than 15 days before the date set for trial, except that if less than 15 days intervene between entry of a plea and the date set for trial, such a motion may be made within 5 days after entry of the plea.~~

~~— (b) The court may, if a defendant waives hearing on the motion or for other good cause shown, permit the motion to be made at a later date.~~

~~— 4. Grounds for making such a motion after the time provided or at the trial must be shown by affidavit.~~

~~— 5. A motion described in subsection 1 made in a criminal prosecution for a:~~

~~— (a) Gross misdemeanor or felony may only be made in a district court.~~

~~— (b) Misdemeanor may only be made in a justice court. (Deleted by amendment.)~~

Sec. 12. ~~[NRS 199.120 is hereby amended to read as follows:~~

~~199.120 1. The State may appeal to the district court from an order of a justice court granting the motion of a defendant to suppress evidence.~~

~~2. Such an appeal [shall] must be taken:~~

~~— (a) Within 2 days after the rendition of such an order during a trial, [or preliminary examination.]~~

~~— (b) Within 5 days after the rendition of such an order before a trial, [or preliminary examination.]~~

~~3. Upon perfecting such an appeal:~~

~~— (a) After the commencement of a trial, [or preliminary examination,] further proceedings in the trial [shall] must be stayed pending the final determination of the appeal.~~

~~— (b) Before trial, [or preliminary examination,] the time limitation within which a defendant [shall] must be brought to trial [shall] must be extended for the period necessary for the final determination of the appeal. (Deleted by amendment.)~~

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 200.

Bill read second time.

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

Amendment No. 395.

SUMMARY—Revises provisions relating ~~to the program to provide devices for telecommunication~~ to persons with impaired speech or hearing. (BDR 38-419)

AN ACT relating to persons with disabilities; **making certain voting members of the Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities of the Nevada Commission on Services for Persons with Disabilities**

nonvoting members; requiring the Subcommittee to make certain recommendations; revising provisions relating to the program to provide devices for telecommunication to persons with impaired speech or hearing; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities of the Nevada Commission on Services for Persons with Disabilities. The Subcommittee consists of nine voting members appointed by the Administrator of the Aging and Disability Services Division of the Department of Health and Human Services. One member of the Subcommittee is required to be an employee of the Division, and another member is required to be the Executive Director of the Nevada Telecommunications Association or, in the event of its dissolution, another representative of the telecommunications industry. (NRS 427A.750) Section 1 of this bill makes these two members nonvoting members.

~~The Aging and Disability Services Division [of the Department of Health and Human Services]~~ is required to develop and administer a program to provide devices for telecommunication to persons with impaired speech or hearing and to fund centers for persons who are deaf or hard of hearing operated by this State. (NRS 427A.797) ~~[This bill]~~ **Section 2** requires that this program include **the provision of other assistive technology and** the provision of certain services by such centers, including, without limitation: (1) facilitating the provision and distribution of devices for telecommunication **and other assistive technology** to persons with impaired speech or hearing; (2) assisting persons with impaired speech or hearing in accessing assistive devices; (3) expanding service capacity for devices for telecommunication **and other assistive technology** in areas where there is a need and services are not available; ~~and~~ (4) providing instruction in language acquisition ~~[This bill]~~; **(5) providing programs designed to increase access to education, employment and health and social services; and (6) providing for the hiring of or contracting with interpreters for use, if available, by the Executive, Judicial and Legislative Departments of the State Government to ensure that appropriate access to the State Government is provided for persons who are deaf or hard of hearing. Section 2 also removes the requirement in existing law that the Public Utilities Commission of Nevada approve the program.**

Existing law requires that funding be provided for ~~[these]~~ **the program, the centers [including, without limitation, these specific services], and certain administrative costs** from the surcharge imposed on each telephone and wireless telephone line of each customer in this State. **The amount of the surcharge is established by the Public Utilities Commission. (NRS 427A.797) Section 2 limits the amount of the surcharge to not more than eight cents per month. Section 1 requires the Subcommittee to make**

recommendations concerning the programs and activities funded by the surcharge.

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

Section 1. NRS 427A.750 is hereby amended to read as follows:

427A.750 1. The Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities of the Nevada Commission on Services for Persons with Disabilities is hereby created. The Subcommittee consists of nine members appointed by the Administrator. The Administrator shall consider recommendations made by the Nevada Commission on Services for Persons with Disabilities and appoint to the Subcommittee:

(a) One **nonvoting** member who is employed by the Division and who participates in the administration of the program of this State that provides services to persons with communications disabilities which affect their ability to communicate;

(b) One member who is a member of the Nevada Association of the Deaf, or, if it ceases to exist, one member who represents an organization which has a membership of persons who are deaf, hard of hearing or speech-impaired;

(c) One member who has experience with or an interest in and knowledge of the problems of and services for the deaf, hard of hearing or speech-impaired;

(d) ~~The~~ **One nonvoting member who is the** Executive Director of the Nevada Telecommunications Association or, in the event of its dissolution, ~~a member~~ who represents the telecommunications industry;

(e) Three members who are users of telecommunications relay services or the services of persons engaged in the practice of interpreting or the practice of realtime captioning;

(f) One member who is a parent of a child who is deaf, hard of hearing or speech-impaired; and

(g) One member who represents educators in this State and has knowledge concerning the provision of communication services to persons with communications disabilities in elementary, secondary and postsecondary schools and the laws concerning the provision of those services.

2. After the initial term, the term of each member is 3 years. A member may be reappointed.

3. If a vacancy occurs during the term of a member, the Administrator shall appoint a person similarly qualified to replace that member for the remainder of the unexpired term.

4. The Subcommittee shall:

(a) At its first meeting and annually thereafter, elect a Chair from among its **voting** members; and

(b) Meet at the call of the Administrator, the Chair of the Nevada Commission on Services for Persons with Disabilities, the Chair of the

Subcommittee or a majority of its voting members as is necessary to carry out its responsibilities.

5. A majority of the voting members of the Subcommittee constitutes a quorum for the transaction of business, and a majority of the voting members of a quorum present at any meeting is sufficient for any official action taken by the Subcommittee.

6. Members of the Subcommittee serve without compensation, except that each member is entitled, while engaged in the business of the Subcommittee, to the per diem allowance and travel expenses provided for state officers and employees generally if funding is available for this purpose.

7. A member of the Subcommittee who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that the person may prepare for and attend meetings of the Subcommittee and perform any work necessary to carry out the duties of the Subcommittee in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Subcommittee to make up the time he or she is absent from work to carry out his or her duties as a member of the Subcommittee or use annual vacation or compensatory time for the absence.

8. The Subcommittee may:

(a) Make recommendations to the Nevada Commission on Services for Persons with Disabilities concerning the establishment and operation of programs for persons with communications disabilities which affect their ability to communicate.

(b) Recommend to the Nevada Commission on Services for Persons with Disabilities any proposed legislation concerning persons with communications disabilities which affect their ability to communicate.

(c) Collect information concerning persons with communications disabilities which affect their ability to communicate.

(d) Create and annually review a 5-year strategic plan consisting of short-term and long-term goals for services provided by or on behalf of the Division. In creating and reviewing any such plan, the Subcommittee must solicit input from various persons, including, without limitation, persons with communications disabilities.

(e) Review the goals, programs and services of the Division for persons with communications disabilities and advise the Division regarding such goals, programs and services, including, without limitation, the outcomes of services provided to persons with communications disabilities and the requirements imposed on providers.

(f) Based on information collected by the Department of Education, advise the Department of Education on research and methods to ensure the availability of language and communication services for children who are deaf, hard of hearing or speech-impaired.

9. The Subcommittee shall make recommendations to ~~(the)~~ :

(a) The Nevada Commission on Services for Persons with Disabilities concerning the practice of interpreting and the practice of realtime captioning, including, without limitation, the adoption of regulations to carry out the provisions of chapter 656A of NRS.

(b) The Division concerning all programs and activities funded by the surcharge imposed pursuant to subsection 3 of NRS 427A.797.

10. As used in this section:

(a) “Nevada Commission on Services for Persons with Disabilities” means the Nevada Commission on Services for Persons with Disabilities created by NRS 427A.1211.

(b) “Practice of interpreting” has the meaning ascribed to it in NRS 656A.060.

(c) “Practice of realtime captioning” has the meaning ascribed to it in NRS 656A.062.

(d) “Telecommunications relay services” has the meaning ascribed to it in 47 C.F.R. § 64.601.

~~Section 1.~~ **Sec. 2.** NRS 427A.797 is hereby amended to read as follows:

427A.797 1. The Division shall develop and administer a program whereby:

(a) Any person who is a customer of a telephone company which provides service through a local exchange or a customer of a company that provides wireless phone service and who is certified by the Division to be deaf or to have severely impaired speech or hearing may obtain a device for telecommunication or other assistive technology capable of serving the needs of such persons at no charge to the customer beyond the rate for basic service; and

(b) Any person who is deaf or has severely impaired speech or hearing may communicate by telephone, including, without limitation, a wireless phone, or other means with other persons through a dual-party relay system. ~~The program must be approved by the Public Utilities Commission of Nevada.~~

~~The program must be approved by the Public Utilities Commission of Nevada.~~ or other assistive technology.

2. *The program developed pursuant to subsection 1 must include the establishment of centers for persons who are deaf or hard of hearing that provide services which must include, without limitation:*

(a) *Facilitating the provision and distribution of devices for telecommunication and other assistive technology to persons with impaired speech or hearing;*

(b) *Assisting persons who are deaf or have severely impaired speech or hearing in accessing assistive devices, including, without limitation, hearing aids, electrolarynxes and devices for telecommunication ~~and~~ and other assistive technology;*

(c) *Expanding the capacity for service using devices for telecommunication and other assistive technology in areas where there is a*

need for such devices and technology and services for persons with impaired speech or hearing are not available; ~~and~~

(d) Providing instruction in language acquisition to persons determined by the center to be eligible for services ~~for~~;

(e) Providing programs designed to increase access to education, employment and health and social services; and

(f) Providing for the hiring of or contracting with interpreters for use, if available, by the Executive, Judicial and Legislative Departments of State Government to ensure that appropriate access to the State Government is provided for persons who are deaf or hard of hearing.

3. A surcharge of not more than 8 cents per month is hereby imposed on each access line of each customer to the local exchange of any telephone company providing such lines in this State and on each personal wireless access line of each customer of any company that provides wireless phone services in this State. ~~[which is sufficient]~~ The surcharge must be used to:

(a) Cover the costs of the program;

(b) Fund the centers for persons who are deaf or hard of hearing ~~operated by this State;~~ established pursuant to subsection 2; and

(c) Cover the costs incurred by the Division to carry out the provisions of chapter 656A of NRS that are not covered by the civil penalties received by the Division pursuant to NRS 656A.800.

↪ The Public Utilities Commission of Nevada shall establish by regulation the amount to be charged. Those companies shall collect the surcharge from their customers and transfer the money collected to the Commission pursuant to regulations adopted by the Commission.

~~[3.]~~ 4. The Account for Services for Persons With Impaired Speech or Hearing is hereby created within the State General Fund and must be administered by the Division. Any money collected from the surcharge imposed pursuant to subsection ~~[2.]~~ 3 must be deposited in the State Treasury for credit to the Account. The money in the Account may be used only:

(a) For the purchase, maintenance, repair and distribution of the devices for telecommunication ~~for~~ and other assistive technology, including the distribution of such devices and technology to state agencies and nonprofit organizations;

(b) To establish and maintain the dual-party relay system;

(c) To reimburse telephone companies and companies that provide wireless phone services for the expenses incurred in collecting and transferring to the Public Utilities Commission of Nevada the surcharge imposed by the Commission;

(d) For the general administration of the program developed and administered pursuant to subsection 1;

(e) To train persons in the use of the devices ~~for~~ for telecommunication and other assistive technology;

(f) To fund the centers for persons who are deaf or hard of hearing ~~operated by this State;~~ established pursuant to subsection 2; and

(g) To cover the costs incurred by the Division to carry out the provisions of chapter 656A of NRS that are not covered by the civil penalties received by the Division pursuant to NRS 656A.800.

~~{4.}~~ 5. For the purposes of this section:

(a) “Device for telecommunication” means a device which is used to send messages through the telephone system, including, without limitation, the wireless phone system, which visually displays or prints messages received and which is compatible with the system of telecommunication with which it is being used.

(b) “Dual-party relay system” means a system whereby persons who have impaired speech or hearing, and who have been furnished with devices for telecommunication, may relay communications through third parties to persons who do not have access to such devices.

Sec. 3. 1. This section and section 1 of this act become effective upon passage and approval.

2. Section 2 of this act becomes effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On July 1, 2015, for all other purposes.

Assemblyman Oscarson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 205.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 565.

SUMMARY — ~~[Creates the Nevada Advisory Commission on Mentoring.]~~
Requires the Legislative Committee on Education to consider matters relating to certain mentorship programs. (BDR {34-116}) S-116)

AN ACT relating to education; ~~[creating the Nevada Advisory Commission on Mentoring; providing for the membership, powers and duties of the Commission;]~~ **requiring the Legislative Committee on Education to consider guidelines, parameters and financial plans for certain mentorship programs;** and providing other matters properly relating thereto.
 Legislative Counsel’s Digest:

Existing law creates the Legislative Committee on Education. The Committee meets during the legislative interim to evaluate, review and comment upon issues related to education in this State. (NRS 218E.600-218E.615) This bill ~~[generally creates the Nevada Advisory Commission on Mentoring for the purpose of supporting and facilitating existing]~~ **requires the Committee, during the 2015-2016 legislative interim, to consider guidelines, parameters and financial plans for certain** mentorship programs in this State to aid in addressing issues relating to education, health, criminal

justice and employment with respect to ~~[socioeconomically disadvantaged]~~ children residing in this State. ~~[Section 2 of this bill creates the Commission and prescribes the membership of the Commission. Sections 4 and 5 of this bill set forth the duties and powers of the Commission. Section 4 requires the Commission to meet quarterly and authorizes the Commission, for the purpose of carrying out its duties, to: (1) appoint committees from its members; (2) engage the services of volunteers and consultants without compensation; (3) enter into public-private partnerships; and (4) apply for and receive gifts, grants, contributions and other money from any source. Section 4 further requires the Commission to appoint a Mentorship Advisory Council to advise the Commission on matters of importance relating to mentoring and mentorship programs in this State. Section 5 of this bill requires the Commission, for the purposes of carrying out its duties, to: (1) establish model guidelines and parameters for existing mentorship programs; (2) develop a model financial plan providing for the sustainability and financial stability of existing programs; and (3) develop model protocols for the management of mentors, mentees and matches under existing programs.]~~ including, without limitation, children who are disproportionately at risk of: (1) being deprived of the opportunity to develop and maintain a competitive position in the economy; (2) failing to make adequate yearly progress in school; or (3) entering the juvenile justice system.

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

Section 1. ~~[Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.]~~ (Deleted by amendment.)

Sec. 2. ~~[As used in sections 2 to 5, inclusive, of this act, unless the context otherwise requires, "Commission" means the Nevada Advisory Commission on Mentoring created by section 3 of this act.]~~ (Deleted by amendment.)

Sec. 3. ~~[1. The Nevada Advisory Commission on Mentoring is hereby created. The Commission consists of the following 13 members:~~

~~—(a) One member appointed by the Governor who is a representative of business and industry with a vested interest in supporting mentorship programs in this State.~~

~~—(b) One member appointed by the Governor who represents an employment and training organization located in this State.~~

~~—(c) One member appointed by the Governor who is a resident of a county whose population is less than 100,000.~~

~~—(d) One member who is the superintendent of a school district in a county whose population is 700,000 or more.~~

~~—(e) One member who is the superintendent of a school district in a county whose population is 100,000 or more but less than 700,000.~~

~~—(f) One member appointed by the Majority Leader of the Senate.~~

- ~~—(g) One member appointed by the Speaker of the Assembly.~~
- ~~—(h) One member appointed by the Minority Leader of the Senate.~~
- ~~—(i) One member appointed by the Minority Leader of the Assembly.~~
- ~~—(j) Four members appointed to the Commission pursuant to subsection 2.~~
- ~~2. The members of the Commission appointed pursuant to paragraphs (a) to (i), inclusive, of subsection 1 shall, at the first meeting of the Commission, appoint to the Commission four additional voting members, two of whom must be members of the state advisory group appointed by the Governor pursuant to 42 U.S.C. § 5633 and operating in this State as the Juvenile Justice Commission under the Division of Child and Family Services of the Department of Health and Human Services and two of whom must be members who are representatives of business and industry with a vested interest in supporting mentorship programs in this State.~~
- ~~3. After the initial terms, each member of the Commission appointed pursuant to subsections 1 and 2 serves a term of 4 years. A member of the Commission may be reappointed.~~
- ~~4. Any vacancy occurring in the membership of the Commission must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs. A member appointed to fill a vacancy shall serve as a member of the Commission for the remainder of the original term of appointment.~~
- ~~5. Each member of the Commission:~~
 - ~~—(a) Serves without compensation; and~~
 - ~~—(b) While engaged in the business of the Commission, is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. (Deleted by amendment.)~~

Sec. 4. ~~{1. At the first meeting of each calendar year, the Commission shall elect from its members a Chair, a Vice Chair and a Secretary, and shall adopt the rules and procedures of the Commission.~~

- ~~2. The Commission shall meet at least once each calendar quarter and at other times at the call of the Chair or a majority of its members.~~
- ~~3. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a quorum may exercise any power or authority conferred on the Commission.~~
- ~~4. The Commission may, for the purpose of carrying out the duties of the Commission prescribed by section 5 of this act:~~
 - ~~—(a) Appoint committees from its members.~~
 - ~~—(b) Engage the services of volunteer workers and consultants without compensation.~~
 - ~~—(c) Enter into a public private partnership with any business, for profit organization or nonprofit organization.~~
 - ~~—(d) Apply for and receive gifts, grants, contributions or other money from any source.~~
- ~~5. The Commission shall appoint a Mentorship Advisory Council consisting of five members who represent organizations which provide~~

~~mentorship programs in this State. The members of the Council serve at the pleasure of the Commission. If a member of the Council is removed or if the position of a member otherwise becomes vacant, the Commission shall appoint a new member to fill the vacancy at the next regularly scheduled meeting of the Commission. The Council may advise the Commission on matters of importance relating to mentoring and mentorship programs in this State.~~

~~6. The Commission shall, on or before February 1 of each year, prepare and submit a report outlining the activities and recommendations of the Commission to:~~

~~(a) The Governor; and~~

~~(b) The Director of the Legislative Counsel Bureau for transmittal to the Legislature or to the Legislative Commission if the Legislature is not in regular session.} (Deleted by amendment.)~~

Sec. 5. ~~{1. The Commission shall, within the scope of its duties, support and facilitate mentorship programs that exist in this State for the purpose of addressing issues relating to education, health, criminal justice and employment with respect to socioeconomically disadvantaged children who reside in this State. The Commission shall:~~

~~(a) Establish model guidelines and parameters for existing mentorship programs, including, without limitation:~~

~~—(1) The development of a model management plan setting forth guidelines for the operation of mentorship programs and strategic goals and benchmarks to measure the success of a mentorship program.~~

~~—(2) The process for identifying socioeconomically disadvantaged children in need of mentorship and geographic areas of need within this State.~~

~~(b) Develop a model financial plan that provides for the sustainability and financial stability of a mentorship program, including, without limitation:~~

~~—(1) The development of a resource plan to provide for diversified fundraising.~~

~~—(2) The identification of potential strategic public and private partners to assist in the implementation and continuation of mentorship programs.~~

~~—(3) The development of public relations and marketing campaigns for the purpose of increasing public awareness with respect to existing mentorship programs.~~

~~(c) Develop model protocols for the recruitment, screening, training, matching, monitoring and support of mentors.~~

~~(d) Develop model protocols for the effective management of mentors, mentees and matches under mentorship programs, including, without limitation, protocols for the introduction of a mentor to a mentee and closure of the relationship between a mentor and a mentee.~~

~~2. As used in this section:~~

~~(a) "Child" has the meaning ascribed to it in NRS 62A.030.~~

~~(b) “Socioeconomically disadvantaged child” means a child who, as the result of the child’s cultural, social or economic circumstances, is disproportionately at risk of:~~

~~(1) Being deprived of the opportunity to develop and maintain a competitive position in the economy;~~

~~(2) Failing to make adequate yearly progress in a public school; or~~

~~(3) Entering the juvenile justice system of this State.} (Deleted by amendment.)~~

Sec. 6. ~~{1. The members of the Nevada Advisory Commission on Mentoring created by section 3 of this act appointed to initial terms in accordance with paragraphs (a) to (i), inclusive, of subsection 1 of section 3 of this act must be appointed on or before October 1, 2015.~~

~~2. The Governor shall call the first meeting of the Commission, which must take place on or before December 31, 2015.~~

~~3. At the first meeting of the Commission, and after the appointment of four voting members to the Commission pursuant to subsection 2 of section 3 of this act, the 13 members appointed to initial terms pursuant to subsections 1 and 2 of section 3 of this act shall choose their term of office by lot, in the following manner:~~

~~(a) Five members for terms of 2 years;~~

~~(b) Four members for terms of 3 years; and~~

~~(c) Four members for a term of 4 years.} (Deleted by amendment.)~~

Sec. 7. ~~{The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.} (Deleted by amendment.)~~

Sec. 7.5. 1. As part of its review of issues related to education during the 2015-2016 legislative interim, the Legislative Committee on Education created by NRS 218E.605 shall consider guidelines, parameters and financial plans for mentorship programs that are established or may be established in this State to address issues relating to education, health, criminal justice and employment with respect to school-age children, including, without limitation, children who are disproportionately at risk of:

(a) Being deprived of the opportunity to develop and to maintain a competitive position in the economy;

(b) Failing to make adequate yearly progress in school; or

(c) Entering the juvenile justice system.

2. Not later than February 6, 2017, the Committee shall prepare and submit a written report to the Director of the Legislative Counsel Bureau, for transmittal to the 79th Session of the Nevada Legislature, concerning the Committee’s consideration of the matters described in this section and any recommendations for legislation.

Sec. 8. This act becomes effective on July 1, 2015.

Assemblywoman Woodbury moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 211.

Bill read second time.

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

Amendment No. 371.

SUMMARY—Revises provisions relating to mechanics' and materialmen's liens, ~~involving certain renewable energy projects.~~ (BDR 9-414)

AN ACT relating to liens; revising provisions requiring a lessee to establish a construction disbursement account or record a surety bond before beginning a work of improvement ; ~~involving certain renewable energy projects; revising provisions concerning the disbursement of funds from a construction disbursement account and the form of surety bonds required to be posted to release prospective and existing lien rights with respect to such projects;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes provisions governing mechanics' and materialmen's liens, which are also commonly known as construction liens. (NRS 108.221-108.246) Under existing law, before a lessee may cause a work of improvement to be constructed, altered or repaired upon property that the lessee is leasing, the lessee must record a notice of posted security and either establish a construction disbursement account or record a surety bond. (NRS 108.2403) ~~[Section 3 of this] This~~ bill provides that if a lessee establishes a construction disbursement account , ~~and the work of improvement to be constructed, altered or repaired is a renewable energy project that generates electricity greater than 18 megawatts,~~ the construction disbursement account ~~is required to be funded in an amount equal to the total cost for the performance of work and~~ is not required to be funded for the cost of any material or ~~equipment. Similarly, section 4 of this bill provides that a construction disbursement account which is established for such a work of improvement is required to be additionally funded upon the disbursement of funds in a pay period in an amount necessary to pay for costs attributable to additional and changed work and is not required to be additionally funded to pay for costs attributable to material or equipment. (NRS 108.2407)~~

~~Existing law requires a surety bond in an amount equal to 1.5 times the amount of the prime contract to be recorded to obtain the release of all prospective and existing lien rights of lien claimants related to a work of improvement. (NRS 108.2415) Section 5 of this bill provides that if the prime contract relates to a work of improvement that is a renewable energy project that generates electricity greater than 18 megawatts, the release of such existing lien rights may be obtained by recording a surety bond in an amount equal to 1.5 times the amount of the total cost for the performance of work~~

~~rather than the total cost of the prime contract.] **equipment if certain requirements are satisfied before the construction disbursement account is established and before the commencement of any work.**~~

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

Section 1. ~~[Chapter 108 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~“Renewable energy project” means a project for the construction or installation of a facility for the generation of renewable energy. As used in this section, “renewable energy” has the meaning ascribed to it in NRS 701.070.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 108.221 is hereby amended to read as follows:~~
~~108.221 As used in NRS 108.221 to 108.246, inclusive, and section 1 of this act, unless the context otherwise requires, the words and terms defined in NRS 108.22104 to 108.22188, inclusive, and section 1 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 3. NRS 108.2403 is hereby amended to read as follows:

108.2403 1. Except as otherwise provided in NRS 108.2405, before a lessee may cause a work of improvement to be constructed, altered or repaired upon property that the lessee is leasing, the lessee shall:

(a) Record a notice of posted security with the county recorder of the county where the property is located upon which the improvement is or will be constructed, altered or repaired; and

(b) Either:

(1) Establish a construction disbursement account and:

(I) ~~[Fund]~~ ***Except as otherwise provided in subsection 2, fund*** the account in an amount equal to the total cost of the work of improvement, but in no event less than the total amount of the prime contract;

(II) Obtain the services of a construction control to administer the construction disbursement account; and

(III) Notify each person who gives the lessee a notice of right to lien of the establishment of the construction disbursement account as provided in paragraph (f) of subsection ~~{2; 3;}~~ **4;** or

(2) Record a surety bond for the prime contract that meets the requirements of subsection 2 of NRS 108.2415 and notify each person who gives the lessee a notice of right to lien of the recording of the surety bond as provided in paragraph (f) of subsection ~~{2; 3;}~~ **4.**

2. ~~*If the lessee establishes a construction disbursement account pursuant to subsection 1, and the work of improvement to be constructed, altered or repaired is a renewable energy project that generates electricity greater than 18 megawatts,*~~ ***the construction disbursement account ~~is~~ (a) Is required to be funded in an amount equal to the total cost for the performance of work; and***

~~(b) Is~~ is not required to be funded for the cost of any material or equipment, equipment which has been or will be furnished directly to the lessee by a supplier for the work of improvement if, before the construction disbursement account is established and before the commencement of any work;

(a) The supplier is paid in full for the cost of the material or equipment;

(b) The supplier executes and delivers to the lessee an unconditional waiver and release in the manner and form required by NRS 108.2457 after the supplier has been paid in full for the cost of the material or equipment;

(c) The lessee records or causes to be recorded a copy of the unconditional waiver and release in the office of the county recorder of the county where the property is located upon which the improvement is or will be constructed, altered or repaired; and

(d) The lessee causes a copy of the recorded unconditional waiver and release to be served personally or by certified mail, return receipt requested, upon the prime contractor for the work of improvement.

3. Except as otherwise provided in this subsection, a supplier who executes and delivers an unconditional waiver and release pursuant to subsection 2 waives any notice of lien, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to payment rights that the supplier may have on the property or against the work of improvement or construction disbursement account established by the lessee. If the supplier or lessee fails to satisfy any requirement required by subsection 2, a construction disbursement account established by the lessee must be funded in an amount equal to the total cost of the work of improvement, including the cost of any material or equipment.

4. The notice of posted security required pursuant to subsection 1 must:

- (a) Identify the name and address of the lessee;
- (b) Identify the location of the improvement and the address, legal description and assessor's parcel number of the property upon which the improvement is or will be constructed, altered or repaired;
- (c) Describe the nature of the lessee's interest in:
 - (1) The property upon which the improvement is or will be constructed, altered or repaired; and
 - (2) The improvement on such property;
- (d) If the lessee establishes a construction disbursement account pursuant to subsection 1, include:
 - (1) The name and address of the construction control;
 - (2) The date that the lessee obtained the services of the construction control and the total amount of funds in the construction disbursement account; and
 - (3) The number of the construction disbursement account, if any;
- (e) If the lessee records a surety bond pursuant to subsection 1, include:
 - (1) The name and address of the surety;
 - (2) The surety bond number;

(3) The date that the surety bond was recorded in the office of the county recorder of the county where the property is located upon which the improvement is or will be constructed, altered or repaired;

(4) The book and the instrument or document number of the recorded surety bond; and

(5) A copy of the recorded surety bond with the notice of posted security; and

(f) Be served upon each person who gives a notice of right to lien within 10 days after receipt of the notice of right to lien, in one of the following ways:

(1) By personally delivering a copy of the notice of posted security to the person who gives a notice of right to lien at the address identified in the notice of right to lien; or

(2) By mailing a copy of the notice of posted security by certified mail, return receipt requested, to the person who gives a notice of right to lien at the address identified in the notice of right to lien.

~~3.4.1~~ 5. If a lessee fails to satisfy the requirements of subsection 1 of this section or subsection 2 of NRS 108.2407, the prime contractor who has furnished or will furnish materials or equipment for the work of improvement may stop work. If the lessee:

(a) Satisfies the requirements of subsection 1 of this section or subsection 2 of NRS 108.2407 within 25 days after any work stoppage, the prime contractor who stopped work shall resume work and the prime contractor and the prime contractor's lower-tiered subcontractors and suppliers are entitled to compensation for any reasonable costs and expenses that any of them have incurred because of the delay and remobilization; or

(b) Does not satisfy the requirements of subsection 1 of this section or subsection 2 of NRS 108.2407 within 25 days after the work stoppage, the prime contractor who stopped work may terminate the contract relating to the work of improvement and the prime contractor and the prime contractor's lower-tiered subcontractors and suppliers are entitled to recover:

(1) The cost of all work, materials and equipment, including any overhead the prime contractor and the lower-tiered subcontractors and suppliers incurred and profit the prime contractor and the lower-tiered subcontractors and suppliers earned through the date of termination;

(2) The balance of the profit the prime contractor and the lower-tiered subcontractors and suppliers would have earned if the contract had not been terminated;

(3) Any interest, costs and attorney's fees that the prime contractor and the lower-tiered subcontractors and suppliers are entitled to pursuant to NRS 108.237; and

(4) Any other amount awarded by a court or other trier of fact.

~~4.5.1~~ 6. The rights and remedies provided pursuant to this section are in addition to any other rights and remedies that may exist at law or in equity, including, without limitation, the rights and remedies provided pursuant to NRS 624.606 to 624.630, inclusive.

Sec. 4. NRS 108.2407 is hereby amended to read as follows:

108.2407 1. If a construction disbursement account is established and funded pursuant to subsection 2 of this section or subsection 1 of NRS 108.2403, each lien claimant has a lien upon the funds in the account for an amount equal to the lienable amount owed.

2. ~~Upon~~ ~~Except as otherwise provided in subsection 3, upon~~ the disbursement of any funds from the construction disbursement account for a given pay period:

(a) The lessee shall deposit into the account such additional funds as may be necessary to pay for the completion of the work of improvement, including, without limitation, the costs attributable to additional and changed work, material or equipment;

(b) The construction control described in subsection 1 of NRS 108.2403 shall certify in writing the amount necessary to pay for the completion of the work of improvement; and

(c) If the amount necessary to pay for the completion of the work of improvement exceeds the amount remaining in the construction disbursement account:

(1) The construction control shall give written notice of the deficiency by certified mail, return receipt requested, to the prime contractor and each person who has given the construction control a notice of right to lien; and

(2) The provisions of subsection ~~3-4~~ 5 of NRS 108.2403 shall be deemed to apply.

3. ~~For the purposes of subsection 2, if the work of improvement for which the disbursement account was established pursuant to subsection 1 of NRS 108.2403 is a renewable energy project that generates electricity greater than 18 megawatts, the additional funds required to be deposited upon the disbursement of funds from the disbursement account for a given pay period:~~

~~(a) Is required to be in an amount necessary to pay for costs attributable to additional and changed work; and~~

~~(b) Is not required to be in an amount necessary to pay for costs attributable to material or equipment.~~

~~4.~~ The construction control shall disburse money to lien claimants from the construction disbursement account for the lienable amount owed such lien claimants.

~~4.~~ ~~5.~~ A lien claimant may notify the construction control of a claim of lien by:

(a) Recording a notice of lien pursuant to NRS 108.226; or

(b) Personally delivering or mailing by certified mail, return receipt requested, a written notice of a claim of lien to the construction control within 90 days after the completion of the work of improvement.

~~5.~~ ~~6.~~ Except as otherwise provided in subsection ~~6.~~ ~~7.~~ the construction control shall pay a legitimate claim of lien upon receipt of the written notice

described in subsection 4 ~~15~~ from the funds available in the construction disbursement account.

6 ~~17~~ The construction control may bring an action for interpleader in the district court for the county where the property or some part thereof is located if:

(a) The construction control reasonably believes that all or a portion of a claim of lien is not legitimate; or

(b) The construction disbursement account does not have sufficient funds to pay all claims of liens for which the construction control has received notice.

7 ~~18~~ If the construction control brings an action for interpleader pursuant to paragraph (a) of subsection 6 ~~17~~ the construction control shall pay to the lien claimant any portion of the claim of lien that the construction control reasonably believes is legitimate.

8 ~~19~~ If an action for interpleader is brought pursuant to subsection 6 ~~17~~ the construction control shall:

(a) Deposit with the court an amount equal to 1.5 times the amount of the lien claims to the extent that there are funds available in the construction disbursement account;

(b) Provide notice of the action for interpleader by certified mail, return receipt requested, to each person:

(1) Who gives the construction control a notice of right to lien;

(2) Who serves the construction control with a claim of lien;

(3) Who has performed work or furnished materials or equipment for the work of improvement; or

(4) Of whom the construction control is aware may perform work or furnish materials or equipment for the work of improvement; and

(c) Publish a notice of the action for interpleader once each week, for 3 successive weeks, in a newspaper of general circulation in the county in which the work of improvement is located.

9 ~~10~~ A construction control who brings an action for interpleader pursuant to subsection 6 ~~17~~ is entitled to be reimbursed from the construction disbursement account for the reasonable costs that the construction control incurred in bringing such action.

10 ~~11~~ If a construction control for a construction disbursement account established by a lessee does not provide a proper certification as required pursuant to paragraph (b) of subsection 2 or does not comply with any other requirement of this section, the construction control and its bond are liable for any resulting damages to any lien claimants.

Sec. 5. ~~INRS 108.2415 is hereby amended to read as follows:~~

~~108.2415 1. To obtain the release of a lien for which notice of lien has been recorded against the property, the principal and a surety must execute a surety bond in an amount equal to 1.5 times the lienable amount in the notice of lien, which must be in the following form:~~

~~(Assessor's Parcel Numbers)~~

~~(Title of court and cause, if action has been commenced)~~

~~WHEREAS, ... (name of principal), located at
 (address of principal), desires to give a bond for
 releasing the following described property owned by
 (name of owners) from that certain notice of
 lien in the sum of \$. recorded (month) (day), (year),
 in the office of the recorder in (name of county where
 the property is located);~~

~~(Legal Description)~~

~~NOW, THEREFORE, the undersigned principal and surety do hereby
 obligate themselves to the lien claimant named in the notice of lien,
 (name of lien claimant) under the conditions
 prescribed by NRS 108.2413 to 108.2425, inclusive, in the sum of
 \$. (1 1/2 x lienable amount), from which sum they will pay the
 lien claimant that amount as a court of competent jurisdiction may
 adjudge to have been secured by the lien, including the total amount
 awarded pursuant to NRS 108.237, but the liability of the surety may not
 exceed the penal sum of the surety bond.~~

~~IN TESTIMONY WHEREOF, the principal and surety have executed this
 bond at, Nevada, on the day of the month of
 of the year~~

~~.....
 (Signature of Principal)~~

~~(Surety Corporation)~~

~~By.....
 (Its Attorney in Fact)~~

~~State of Nevada }
 } ss.
 County of }~~

~~On (month) (day), (year), before me, the undersigned, a notary
 public of this County and State, personally appeared
 who acknowledged that he or she executed the foregoing instrument as
 principal for the purposes therein mentioned and also personally appeared
 known (or satisfactorily proved) to me to be the
 attorney in fact of the surety that executed the foregoing instrument,
 known to me to be the person who executed that instrument on behalf of
 the surety therein named, and he or she acknowledged to me that the
 surety executed the foregoing instrument.~~

~~.....~~
~~(Notary Public in and for~~
~~the County and State)~~

~~2. To obtain the release of all prospective and existing lien rights of lien claimants related to a work of improvement, the principal and a surety must execute and cause to be recorded a surety bond in an amount equal to 1.5 times the amount of the prime contract [which] or, if the prime contract relates to a work of improvement that is a renewable energy project that generates electricity greater than 18 megawatts, a surety bond in an amount equal to 1.5 times the amount of the total cost for the performance of work as indicated in the prime contract. The surety bond must be in the following form:~~

~~(Assessor's Parcel Numbers)~~

~~(Title of court and cause, if action has been commenced)~~

~~WHEREAS, ... (name of principal), located at (address of principal), desires to give a bond for releasing the following described property owned by (name of owners) from all prospective and existing lien rights and notices of liens arising from materials, equipment or work, as applicable, provided or to be provided under the prime contract described as follows:~~

~~(Parties to the Prime Contract)~~

~~(Amount of the Prime Contract)~~

~~(Date of the Prime Contract)~~

~~(Summary of Terms of the Prime Contract)~~

~~WHEREAS, the property that is the subject of the surety bond is described as follows:~~

~~(Legal Description)~~

~~NOW, THEREFORE, the undersigned principal and surety do hereby obligate themselves in the sum of \$..... (1 1/2 x amount of prime contract) to all prospective and existing lien claimants who have provided or hereafter provide materials, equipment or work, as applicable, under the prime contract, from which sum the principal and surety will pay the lien claimants the lienable amount that a court of competent jurisdiction may determine is owed to each lien claimant, and such additional amounts as may be awarded pursuant to NRS 108.227, but the liability of the surety may not exceed the penal sum of the surety bond.~~

~~IN TESTIMONY WHEREOF, the principal and surety have executed this bond at, Nevada, on the day of the month of of the year~~

.....
 (Signature of Principal)

(Surety Corporation)

By.....
 (Its Attorney in Fact)

State of Nevada _____ }

_____ } ss.

County of _____ }

On (month) (day), ... (year), before me, the undersigned, a notary public of this County and State, personally appeared who acknowledged that he or she executed the foregoing instrument as principal for the purposes therein mentioned and also personally appeared known (or satisfactorily proved) to me to be the attorney in fact of the surety that executed the foregoing instrument, known to me to be the person who executed that instrument on behalf of the surety therein named, and he or she acknowledged to me that the surety executed the foregoing instrument.

.....
 (Notary Public in and for
 the County and State)

~~3. The principal must record the surety bond in the office of the county recorder in the county in which the property upon which the improvement is located, either before or after the commencement of an action to enforce the lien. A certified copy of the recorded surety bond shall be deemed an original for purposes of this section.~~

~~4. Upon the recording of the surety bond, the principal must serve a file-stamped copy of the recorded surety bond in the following manner:~~

~~(a) If a lien claimant has appeared in an action that is pending to enforce the notice of lien, service must be made by certified or registered mail, return receipt requested, upon the lien claimant at the address set forth in the lien and the lien claimant's counsel of record at his or her place of business;~~

~~(b) If a notice of lien is recorded at the time the surety bond is recorded and no action is pending to enforce the notice of lien, personal service must be made upon each lien claimant pursuant to Rule 4 of the Nevada Rules of Civil Procedure; or~~

~~(c) If no notice of lien is recorded at the time the surety bond is recorded, service must be made by personal service or certified mail, return receipt requested, upon each lien claimant and prospective lien claimant that has provided or thereafter provides the owner or lessee with a notice of a right to lien. Such service must be within 10 days after the recording of the surety bond, or the service of notice of the right to lien upon the owner by a lien claimant, whichever is later.~~

~~5. Failure to serve the surety bond as provided in subsection 4 does not affect the validity of the surety bond, but the statute of limitations on any action on the surety bond, including a motion excepting to the sufficiency of the surety pursuant to NRS 108.2425, is tolled until notice is given.~~

~~6. Subject to the provisions of NRS 108.2425, the recording and service of the surety bond pursuant to:~~

~~(a) Subsection 1 releases the property described in the surety bond from the lien and the surety bond shall be deemed to replace the property as security for the lien.~~

~~(b) Subsection 2 releases the property described in the surety bond from any liens and prospective liens for work, materials or equipment related to the prime contract and the surety bond shall be deemed to replace the property as security for the lien.~~ **(Deleted by amendment.)**

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 217.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 425.

AN ACT relating to off-highway vehicles; ~~removing~~ **revising** the requirement for certain off-highway vehicles to register with the Department of Motor Vehicles; ~~revising provisions relating to the Commission on Off-Highway Vehicles;~~ revising provisions relating to the registration of certain off-highway vehicles intended to be operated on certain roads; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the operator of an off-highway vehicle is required to register the vehicle with the Department of Motor Vehicles. (NRS 490.082) **Such a vehicle can be registered by the Department or an off-highway dealer who has been authorized by the Department. Section 3.4 of this bill authorizes the Department, upon request from a sheriff, to authorize the sheriff to accept from the owner of an off-highway vehicle the applicable fees and the information required by the Department for registration. Such a sheriff or dealer is authorized to retain \$5 from the registration fees paid by the owner of the off-highway vehicle.**

~~Existing law **also** authorizes a large all-terrain vehicle to be registered as an off-highway vehicle intended to operate on certain roads that have been designated for such use if the large all-terrain vehicle has certain required equipment and the owner of the large all-terrain vehicle provides proof of liability insurance that meets the requirements for other motor vehicles that are authorized to operate on the highways of this State. (NRS 490.0825, 490.105) Existing law also requires the Department to deposit some of the money~~

~~received for the registration of off-highway vehicles into a fund that is administered by the Commission on Off-Highway Vehicles, which is required to use the money for certain purposes including: (1) the funding of grants; (2) the funding of certain projects regarding trails and other facilities for use by off-highway vehicles; and (3) for safety training and education relating to off-highway vehicles. (NRS 490.068, 490.069, 490.082)}~~ **Sections 3.2 and 3.9 of this bill define as an off-highway vehicle required to be registered a mini-truck which meets certain specifications for power and size. Section 6 of this bill allows the owner of such a mini-truck to register the mini-truck as an off-highway vehicle intended to operate on certain roads that have been designated for such use if the mini-truck meets the same equipment and insurance requirements that a large all-terrain vehicle must meet. Section 12 of this bill exempts the driver of a mini-truck from the requirement to wear a helmet if driving an off-highway vehicle on a highway of this State. (NRS 490.130)**

Section 5 of this bill ~~removes~~ **revises** the ~~requirement~~ **requirements** for off-highway vehicles to be registered ~~to~~ **to acknowledge the authority of authorized sheriffs to register such vehicles.** Section 6 of this bill revises the provisions allowing for the registration of certain large all-terrain vehicles **and mini-trucks** to be operated on certain roads designated for their use by adding provisions relating to renewal of such registration, and adding provisions that exempt from such registration certain large all-terrain vehicles **or mini-trucks** owned and operated: (1) by certain governmental entities; (2) by certain off-highway dealers under certain circumstances; (3) for work conducted by a public or private utility; (4) solely as part of an organized race, festival or similar event; or (5) in the conduct of certain search and rescue operations. ~~Section 3 of this bill authorizes the Commission on Off Highway Vehicles to seek and receive grants, gifts and donations, and to include in certain reports submitted to the Legislature a summary of any such grants, gifts or donations.~~ **Sections 4 and 10** of this bill revise provisions relating to the duties of the Department to reflect the changes made to the registration of off-highway vehicles in this bill. ~~Section 7 of this bill authorizes the Department to furnish to certain persons who are licensed to sell or lease off-highway vehicles special plates commonly known as "dealer plates," and section 11 of this bill authorizes those licensees to operate a large all-terrain vehicle on certain highways for the purpose of display, demonstration, maintenance, sale or exchange if the person has obtained such a plate from the Department.~~

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

Section 1. ~~[NRS 490.026 is hereby amended to read as follows:~~
~~490.026 "Consignment" means any transaction whereby the [registered]~~
~~owner or lienholder of an off-highway vehicle [subject to registration pursuant~~
~~to this chapter] agrees, entrusts or in any other manner authorizes a consignee~~

~~to act as his or her agent to sell, exchange, negotiate or attempt to negotiate a sale or an exchange of the interest of the [registered] owner or lienholder in the off highway vehicle, whether or not for compensation.~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 490.028 is hereby amended to read as follows:~~

~~490.028 “Consignment contract” means a written agreement between [a registered] an owner or lienholder of an off highway vehicle and a consignee to whom the off highway vehicle has been entrusted by consignment for the purpose of sale that specifies the terms and conditions of the consignment and sale.~~ **(Deleted by amendment.)**

Sec. 3. ~~[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, other than the Chair of the Nevada Indian Commission;~~

~~—— (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 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 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 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 Account.~~

~~— 3. The Commission may apply for and accept grants, gifts and donations which the Commission shall deposit in the Account for Off-Highway Vehicles created by NRS 490.069.~~

~~— 4. 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.] 5. For each regular session of the Legislature, the Commission shall prepare a comprehensive report, including, without limitation, a summary of any gifts, grant or donations received by the Commission and of any grants that the Commission awarded and of the accounting activities of the 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.] (Deleted by amendment.)~~

Sec. 3.1. Chapter 490 of NRS is hereby amended by adding thereto the provisions set forth as sections 3.2, 3.3 and 3.4 of this act.

Sec. 3.2. "Mini-truck" means a motor vehicle which has four wheels, a truck bed and an engine which displaces not more than 660 cubic centimeters, and which is not more than 130 inches in length, not more than 78 inches in height and not more than 60 inches wide.

Sec. 3.3. "Sheriff" means a person who holds the office of sheriff pursuant to chapter 248 of NRS and his or her deputies.

Sec. 3.4. 1. Except as otherwise provided in NRS 490.0825, upon the request of a sheriff, the Department may authorize the sheriff to receive applications and fees for registration or renewal of registration for off-highway vehicles.

2. An authorized sheriff shall:

(a) Except as otherwise provided in subsection 3, submit to the State Treasurer for allocation to the Department or to the Account for Off-Highway Vehicles created by NRS 490.069 all fees charged and collected by the sheriff from each applicant and required to be deposited in the Account pursuant to NRS 490.084; and

(b) Comply with the regulations adopted pursuant to subsection 4.

3. An authorized sheriff who registers or renews registration for an off-highway vehicle may retain \$5 from the fee required for registration or renewal of registration received pursuant to this section. All fees collected by an authorized sheriff pursuant to this subsection must be accounted for as provided in subsection 6 of NRS 248.275.

4. The Department shall adopt regulations to carry out the provisions of this section. The regulations must, without limitation, provide for a registration and renewal program for an authorized sheriff that is substantially similar to that authorized for an off-highway vehicle dealer pursuant to NRS 490.070.

Sec. 3.7. NRS 490.010 is hereby amended to read as follows:

490.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 490.020 to 490.062, inclusive, **and sections 3.2 and 3.3 of this act** have the meanings ascribed to them in those sections.

Sec. 3.8. NRS 490.043 is hereby amended to read as follows:

490.043 “Large all-terrain vehicle” means any all-terrain vehicle that includes seating capacity for at least two people abreast and ~~for~~

~~1. Total~~ **total** seating capacity for at least four people. ~~for~~

~~2. A truck bed.~~

Sec. 3.9. NRS 490.060 is hereby amended to read as follows:

490.060 1. “Off-highway vehicle” means a motor vehicle that is designed primarily for off-highway and all-terrain use. The term includes, but is not limited to:

(a) An all-terrain vehicle, including, without limitation, a large all-terrain vehicle without regard to whether that large all-terrain vehicle is registered by the Department in accordance with NRS 490.0825 as a motor vehicle intended to be operated upon the highways of this State;

(b) An all-terrain motorcycle;

(c) A dune buggy;

(d) A snowmobile; ~~and~~

(e) **A mini-truck; and**

(f) Any motor vehicle used on public lands for the purpose of recreation.

2. The term does not include:

(a) A motor vehicle designed primarily for use in water;

(b) A motor vehicle that is registered by the Department in accordance with chapter 482 of NRS;

(c) A low-speed vehicle as defined in NRS 484B.637; or

(d) Special mobile equipment, as defined in NRS 482.123.

Sec. 4. 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) ~~Registration of large all-terrain vehicles; and~~

~~(c)~~ Renewal of registration for off-highway ~~large all-terrain~~ 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 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 Account for Off-Highway Vehicles all fees charged and collected and required to be deposited in the 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 ~~for registration~~ received by the authorized dealer pursuant to this section. An authorized dealer may retain ~~any~~ \$5 of the fee collected by the authorized dealer for the registration or renewal of registration of an off-highway vehicle pursuant to this ~~subsection.~~ section.

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) ~~Forms for applying for the registration of large all-terrain vehicles;~~

~~(3)~~ Certificates of title and registration by the Department to each applicant whose application is approved by the Department; and

(3) ~~(4)~~ 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 ~~fa large all terrain~~ vehicle pursuant to NRS 490.082 or 490.0825;

(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 registration of a large all terrain vehicle; or~~
~~(3) The renewal of registration of an off-highway fa large all terrain~~ 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. 5. NRS 490.082 is hereby amended to read as follows:

490.082 1. An owner of an off-highway vehicle that is acquired:

(a) Before July 1, 2011:

(1) May ~~may~~ apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection ~~3, 4~~, shall, within 1 year after July 1, 2011, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.

(b) On or after July 1, 2011, shall, within 30 days after acquiring ownership of the off-highway vehicle:

(1) Apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection ~~3, 4~~, apply for, to the Department by mail or to **an authorized sheriff or** an authorized dealer, and obtain from the Department, **authorized sheriff or authorized dealer** the registration of the off-highway vehicle pursuant to this section or NRS 490.0825.

2. If an owner of an off-highway vehicle applies to the Department or to an authorized dealer for ~~the~~:

~~(a) A~~ **a** certificate of title for the off-highway vehicle, the owner shall submit to the Department or to the authorized dealer proof prescribed by the Department that he or she is the owner of the off-highway vehicle.

~~(b) 3.~~ Except as otherwise provided in NRS 490.0825, **if an owner of an off-highway vehicle applies to the Department, an authorized sheriff or an authorized dealer for** the registration of the off-highway vehicle, the owner shall submit:

(1) If ownership of the off-highway vehicle was obtained before July 1, 2011, proof prescribed by the Department:

(I) That he or she is the owner of the off-highway vehicle; and

(II) Of the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off-highway vehicle; or

(2) If ownership of the off-highway vehicle was obtained on or after July 1, 2011:

(I) Evidence satisfactory to the Department that he or she has paid all taxes applicable in this State relating to the purchase of the off-highway vehicle, or submit an affidavit indicating that he or she purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle; and

(II) Proof prescribed by the Department that he or she is the owner of the off-highway vehicle and of the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off-highway vehicle.

~~{3-}~~ 4. Registration of an off-highway vehicle is not required if the off-highway vehicle:

(a) Is owned and operated by:

(1) A federal agency;

(2) An agency of this State; or

(3) A county, incorporated city or unincorporated town in this State;

(b) Is part of the inventory of a dealer of off-highway vehicles and is affixed with a special plate provided to the off-highway vehicle dealer pursuant to NRS 490.0827;

(c) Is registered or certified in another state and is located in this State for not more than 15 days;

(d) Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off-highway vehicle;

(e) Is used for work conducted by or at the direction of a public or private utility;

(f) Was manufactured before January 1, 1976;

(g) Is operated solely in an organized race, festival or other event that is conducted:

(1) Under the auspices of a sanctioning body; or

(2) By permit issued by a governmental entity having jurisdiction;

(h) Except as otherwise provided in paragraph (d), is operated or stored on private land or on public land that is leased to the owner or operator of the off-highway vehicle, including when operated in an organized race, festival or other event;

(i) Is used in a search and rescue operation conducted by a governmental entity having jurisdiction; or

(j) Has a displacement of not more than 70 cubic centimeters.

➔ As used in this subsection, "sanctioning body" means an organization that establishes a schedule of racing events, grants rights to conduct those events

and establishes and administers rules and regulations governing the persons who conduct or participate in those events.

~~{4.}~~ 5. The registration of an off-highway vehicle pursuant to this section or NRS 490.0825 expires 1 year after its issuance. If an owner of an off-highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department, **an authorized sheriff or an authorized dealer** of the annual renewal fee, a late fee of \$25 and, if applicable, proof of insurance required pursuant to NRS 490.0825. Any late fee collected by the Department 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.

~~— 5. **3.1 fee.**~~

6. If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate certificate of title ~~{1}~~, **or to an authorized sheriff or an authorized dealer for a duplicate certificate of registration.** The Department may collect a fee to replace a certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:

- (a) Set forth by the Department by regulation; and
- (b) 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.

~~{6. **4.1 7.**~~ The provisions of ~~{subsections 1 to 5, inclusive,}~~ **this section** do not apply to an owner of an off-highway vehicle who is not a resident of this State.

Sec. 6. NRS 490.0825 is hereby amended to read as follows:

490.0825 1. Upon the request of an owner of a large all-terrain vehicle ~~{1}~~ **or a mini-truck,** the Department shall register the large all-terrain vehicle **or mini-truck** to operate on the roads specified in NRS 490.105.

2. The owner of a large all-terrain vehicle **or mini-truck** wishing to apply for **annual** registration ~~{for renewal of registration}~~ pursuant to this section must obtain and maintain insurance on the **large all-terrain** vehicle **or mini-truck** that meets the requirements of NRS 485.185.

3. If an owner of a large all-terrain vehicle **or mini-truck** applies to the Department for the registration of the **large all-terrain** vehicle **or mini-truck** pursuant to this section, the owner shall submit to the Department:

(a) The information required ~~{prescribed by the Department}~~ for registration ~~{1}~~ **pursuant to NRS 490.082;**

(b) The fee for **annual** registration required pursuant to NRS 490.084;

(c) Proof satisfactory to the Department that the applicant carries insurance on the **large all-terrain** vehicle **or mini-truck** provided by an insurance company licensed by the Division of Insurance of the Department of Business

and Industry and approved to do business in this State which meets the requirements of NRS 485.185; and

(d) A declaration signed by the applicant that he or she will maintain the insurance required by this section during the period of registration.

~~4. The registration of a large all-terrain vehicle that an owner has elected to register pursuant to this section expires 1 year after its issuance. If an owner of a large all-terrain vehicle fails to renew the registration of the large all-terrain vehicle before it expires, the owner may elect to reinstate the registration upon the payment to the Department of the annual renewal fee, a late fee of \$25 and submission to the Department of proof of insurance as required pursuant to paragraph (c) of subsection 3 and a declaration as required pursuant to paragraph (d) of subsection 3. Any late fee collected by the Department 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 400.085.~~

~~5. If a registration sticker or decal for a large all-terrain vehicle is lost, damaged or destroyed, the owner of the large all-terrain vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate registration sticker or decal. The Department may collect a fee to replace a registration sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:~~

~~(a) Set forth by the Department by regulation; and~~

~~(b) Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 400.085.~~

~~6. Registration of a large all-terrain vehicle to operate on the roads specified in NRS 400.105 is not required if the large all-terrain vehicle:~~

~~(a) Is owned and operated by:~~

~~(1) A federal agency;~~

~~(2) An agency of this State; or~~

~~(3) A county, incorporated city or unincorporated town in this State;~~

~~(b) Is part of the inventory of a dealer of off-highway vehicles and is affixed with a special plate provided to the off-highway vehicle pursuant to NRS 400.0827;~~

~~(c) Is registered or certified in another state and is located in this State for not more than 15 days;~~

~~(d) Is used for work conducted by or at the direction of a public or private utility;~~

~~(e) Is operated solely in an organized race, festival or other event that is conducted;~~

~~(1) Under the auspices of a sanctioning body; or~~

~~(2) By permit issued by a governmental entity having jurisdiction; or~~

~~(f) Is used in a search and rescue operation conducted by a governmental entity having jurisdiction.~~

~~As used in this subsection, “sanctioning body” means an organization that establishes a schedule of racing events, grants rights to conduct those events, and establishes and administers rules and regulations governing the persons who conduct or participate in those events.~~

~~7. The Department shall adopt regulations to carry out the provisions of this section.~~

Sec. 7. ~~NRS 490.0827 is hereby amended to read as follows:~~

~~490.0827 1. Upon issuance of an off-highway vehicle dealer’s, long-term or short-term lessor’s or manufacturer’s license certificate pursuant to NRS 490.200 or upon the renewal of the license pursuant to NRS 490.210, the Department shall furnish to the off-highway vehicle dealer, long-term or short-term lessor or manufacturer one or more special plates for use on [an off-highway] **a large all-terrain** vehicle specified in subsection 1 of NRS 490.125. Each plate must have displayed upon it the identification number assigned by the Department to the off-highway vehicle dealer, long-term or short-term lessor or manufacturer, and may include a different letter or symbol on the plate. The off-highway vehicle dealer’s, long-term or short-term lessor’s or manufacturer’s special plates may be used interchangeably on that off-highway vehicle.~~

~~2. The Department shall issue to each off-highway vehicle dealer, long-term or short-term lessor or manufacturer a reasonable number of special plates.~~ **(Deleted by amendment.)**

Sec. 8. NRS 490.083 is hereby amended to read as follows:

490.083 1. Each registration of an off-highway ~~[a large all-terrain]~~ vehicle must:

(a) ~~[1.]~~ Be in the form of a sticker or decal, as prescribed by the Commission.

(b) ~~[2.]~~ Be at least 3 inches high by 3 1/2 inches wide and display not more than four characters that are at least 1 1/4 inches high.

(c) ~~[3.]~~ Include the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off-highway ~~[large all-terrain]~~ vehicle.

(d) ~~[4.]~~ Be displayed on the off-highway ~~[large all-terrain]~~ vehicle in the manner set forth by the Commission.

2. The registration sticker or decal of a large all-terrain vehicle or a mini-truck registered pursuant to NRS 490.0825 must be distinguishable from the sticker or decal of an off-highway vehicle registered pursuant to NRS 490.082 in a manner to be determined by the Department.

Sec. 9. ~~NRS 490.0835 is hereby amended to read as follows:~~

~~490.0835 1. The Department may assign a distinguishing number to any off-highway vehicle if:~~

~~(a) The off-highway vehicle does not have a unique vehicle identification number or serial number provided by the manufacturer of the vehicle;~~

~~— (b) The unique vehicle identification number or serial number provided by the manufacturer of the off-highway vehicle has been removed, defaced, altered or obliterated; or~~

~~— (c) The off-highway vehicle is homemade.~~

~~— 2. Any off-highway vehicle to which there is assigned a distinguishing number pursuant to subsection 1 must be registered, if [required] requested by the owner pursuant to NRS [490.082,] 490.0825, under the distinguishing number.~~

~~— 3. The Department shall collect a fee of \$2 for the assignment and recording of each such distinguishing number.~~

~~— 4. The number by which an off-highway vehicle is registered pursuant to NRS [490.082 or] 490.0825 must be permanently stamped or attached to the vehicle. False attachment or willful removal, defacement, alteration or obliteration of such a number with intent to defraud is a gross misdemeanor.~~

(Deleted by amendment.)

Sec. 10. 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 ~~fa large all terrain~~ vehicle pursuant to NRS 490.082 or 490.0825, but such fee must not be less than \$20 or more than \$30. ~~[Money]~~ **Except as otherwise provided in section 3.4 of this act and NRS 490.070, 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 Account for Off-Highway Vehicles created by NRS 490.069.~~

~~— (b) On or after July 1, 2013:~~

~~— (1)}~~ **(a)** 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)}~~ **(b)** 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 Account for Off-Highway Vehicles.

Sec. 11. NRS 490.125 is hereby amended to read as follows:

490.125 1. Except as otherwise provided in NRS 490.160, an off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has an established place of business in this State and who owns or controls any new or used off-highway ~~large all-terrain~~ vehicle that ~~is otherwise required to~~ ~~may~~ be registered pursuant to ~~[NRS 490.082, 490.0825]~~ ~~this chapter~~ may operate that vehicle or allow it to be operated ~~on a highway in accordance with NRS 490.090 to 490.130, inclusive,~~ for purposes of display, demonstration, maintenance, sale or exchange if there is displayed thereon a special plate issued to the off-highway vehicle dealer, long-term or short-term lessor or manufacturer as provided in NRS 490.0827. Owners or officers of the corporation, managers, heads of departments and salespersons may be temporarily assigned and operate an off-highway ~~large all-terrain~~ vehicle displaying the special plate.

2. A special plate which is issued to an off-highway vehicle dealer, long-term or short-term lessor or manufacturer pursuant to NRS 490.0827 may be attached to an off-highway ~~large all-terrain~~ vehicle specified in subsection 1 by a secure means. The plate must not be displayed loosely in the window or by any other unsecured method in or on an off-highway ~~large all-terrain~~ vehicle.

3. The provisions of this section do not apply to:

(a) Work or service off-highway ~~large all-terrain~~ vehicles owned or controlled by an off-highway vehicle dealer, long-term or short-term lessor or manufacturer.

(b) Off-highway ~~large all-terrain~~ vehicles leased by off-highway vehicle dealers, long-term or short-term lessors or manufacturers, except ~~off-highway large all-terrain~~ vehicles rented or leased to off-highway vehicle salespersons in the course of their employment.

(c) Off-highway ~~large all-terrain~~ vehicles which are privately owned by the owners, officers or employees of the off-highway vehicle dealer, long-term or short-term lessor or manufacturer.

(d) Off-highway ~~large all-terrain~~ vehicles which are being used for personal reasons by a person who is not licensed by the Department or otherwise exempted in subsection 1.

(e) Off-highway ~~large all-terrain~~ vehicles which have been given or assigned to persons who work for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for services performed.

(f) Off-highway ~~large all-terrain~~ vehicles purchased by an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for personal use which the off-highway vehicle dealer, long-term or short-term lessor or manufacturer is not licensed or authorized to resell.

Sec. 12. NRS 490.130 is hereby amended to read as follows:

490.130 **1.** The operator of an off-highway vehicle that is being driven on a highway in this State in accordance with NRS 490.090 to 490.130, inclusive, shall:

~~{1.}~~ **(a)** Comply with all traffic laws of this State;

~~{2.}~~ **(b)** Ensure that the registration of the off-highway vehicle ~~is if required pursuant to NRS 490.0825 and 490.105,~~ is attached to the vehicle in accordance with NRS 490.083 or a special plate issued pursuant to NRS 490.0827 is attached to the vehicle; and

~~{3. Wear}~~

(c) Except as otherwise provided in subsection 2, wear a helmet.

2. A person driving a mini-truck on a highway in this State is not required to wear a helmet.

Sec. 12.5. NRS 248.320 is hereby amended to read as follows:

248.320 ~~{No}~~ **Except as otherwise provided in section 3.4 of this act, no** other fees shall be charged by sheriffs than those specifically set forth in this chapter, nor shall fees be charged for any other services than those mentioned in this chapter.

Sec. 13. ~~{The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.}~~ (Deleted by amendment.)

Sec. 14. This act becomes effective on July 1, 2015.

Assemblyman Wheeler moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 218.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 632.

AN ACT relating to education; requiring the board of trustees of each school district and the governing body of a charter school to consult with ~~the Division of Emergency Management of the Department of Public Safety,~~ **certain persons and entities** before constructing, expanding or remodeling buildings for schools or related facilities; requiring each school district in certain counties to appoint an emergency manager; requiring the Department of Education to conduct an annual conference regarding safety in public schools; **requiring the Department to employ certain licensed mental or behavioral health professionals and make them available to public schools;** requiring the board of trustees of each school district and the governing body of a charter school to provide drills to instruct pupils concerning lockdown procedures; requiring a licensed social worker who is employed or retained to provide services to pupils at a public school to provide certain services; **requiring that a plan developed to respond to a crisis or an emergency prescribe certain procedures;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the board of trustees of each school district and the governing body of each charter school to consult with the Division of Emergency Management of the Department of Public Safety regarding safety

in schools before constructing, expanding or remodeling buildings for schools or related facilities.

Section 2.5 of this bill defines a “school resource officer” as a deputy sheriff or other peace officer who interacts directly with pupils and provides information to pupils, families and educational personnel. Section 3 of this bill requires each school district in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to designate an employee to serve as an emergency manager.

Existing law requires the board of trustees of each school district and the governing body of each charter school to establish a development committee to develop a plan to be used by each public school of the school district in responding to a crisis or an emergency. (NRS 392.616) Section 7.5 of this bill requires each development committee to consult with an emergency manager, a school resource officer or the chief of school police of the school district, if such a person exists in the school district. Section 7.5 also requires the plan to include procedures for: (1) effective communication and interoperability among law enforcement and other first responders; (2) securing a school in the event of a lockdown; and (3) assisting a person with a disability with moving to safety during an emergency or crisis.

Section 4 of this bill requires the Department of Education to coordinate with the Division of Emergency Management, any emergency manager, any chief of police of a school district that has police officers and any school resource officer to conduct an annual conference regarding safety in public schools. Section 4 additionally requires the board of trustees of each school district and the governing body of each charter school to designate certain persons to attend this conference.

In section 4.5 of this bill, the Legislature finds that it is optimal to have a ratio of at least 1 licensed mental or behavioral health professional per 250 pupils. Section 5 of this bill requires the Department of Education to employ certain licensed mental or behavioral health professionals and make them available to provide services at public schools, as necessary. Section 5 requires the State Board of Education to prescribe the duties of such mental or behavioral health professionals, and authorizes the State Board to require additional training for such persons.

Section 5 also requires a licensed social worker who is employed or retained to provide services to pupils at a public school to provide certain services to: (1) improve the mental health of pupils; (2) assess the needs of certain pupils; and (3) provide a list of any resources that may be available in the community to assist a pupil.

Existing law requires the board of trustees of each school district and the governing body of each charter school to provide certain emergency drills for pupils at least once each month during the school year. Existing law also requires a public school located in a city or town that has a regularly organized, paid fire department or voluntary fire department to conduct such drills under

the supervision of: (1) the person designated for this purpose by the board of trustees of the school district; and (2) the chief of the fire department of the city or town in which a school is located. (NRS 392.450) **Section 6** of this bill requires the board of trustees of each school district and the governing body of each charter school to provide drills for schools under their jurisdiction at least once each month during the school year to instruct pupils in the appropriate procedures to be followed in the event of a lockdown. **Section 6 requires at least one-half of these drills to include instruction in appropriate procedures to be followed in the event of a lockdown.** Section 6 also requires: (1) any public school located in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) to conduct the drills under the supervision of the person designated for that purpose by the board of trustees of the school district or the governing body of the charter school, as applicable; and (2) a public school located in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to conduct such drills under the supervision of an emergency manager. ~~[Section 3 of this bill requires each school district in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to designate an employee to serve as an emergency manager.]~~

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

Section 1. Chapter 386 of NRS is hereby amended by adding thereto a new section to read as follows:

The board of trustees of each school district and the governing body of each charter school shall consult with the Division of Emergency Management of the Department of Public Safety regarding safety in schools before:

- 1. Designing, constructing or purchasing new buildings for schools or related facilities;*
- 2. Enlarging, remodeling or renovating existing buildings for schools or related facilities; and*
- 3. Acquiring sites for building schools or related facilities.*

Sec. 2. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~2, 4 and 5~~ **2.25 to 5**, inclusive, of this act.

Sec. 2.25. "Lockdown" means a circumstance in which the persons on school property are restricted to the interior of a school building and isolated from threats until the school property and surrounding vicinity are deemed to be secure by:

- 1. If the school district has school police officers, the chief of school police of a school district or a person designated by him or her; or**
- 2. If the school district does not have school police officers, the school resource officer or a person designated by him or her or, if the school district does not have school resource officers, a local law enforcement agency.**

Sec. 2.5. “School resource officer” means a deputy sheriff or other peace officer employed by a local law enforcement agency who is assigned to duty at one or more schools, interacts directly with pupils and whose responsibilities include, without limitation, providing guidance and information to pupils, families and educational personnel concerning the avoidance and prevention of crime.

Sec. 3. Each school district in a county whose population is 100,000 or more shall designate a full-time employee to serve as an emergency manager. As used in this section, “emergency manager” means a person whose job responsibilities are focused solely on the planning and coordination of available resources for the mitigation of, preparation and training for, response to and recovery from emergencies or crises.

Sec. 4. 1. The Department of Education shall, at least once each year, coordinate with the Division of Emergency Management of the Department of Public Safety, any emergency manager designated pursuant to section 3 of this act, any chief of police of a school district that has police officers and any school resource officer to conduct a conference regarding safety in public schools.

2. The board of trustees of each school district and the governing body of each charter school shall designate persons to attend the conference held pursuant to subsection 1. The persons so designated must include, without limitation:

(a) An administrator from the school district or charter school, as applicable; ~~and~~

(b) If the school district has school resource officers, a school resource officer or a person designated by him or her;

(c) If the school district has school police officers, the chief of school police of ~~for~~ the school district or a person designated by him or her ~~for~~; and

(d) If the school district has an emergency manager designated pursuant to section 3 of this act, the emergency manager.

3. The conference conducted pursuant to subsection 1 may be attended by:

(a) A licensed teacher of a school or charter school;

(b) Educational support personnel employed by a school district or charter school;

(c) The parent or legal guardian of a pupil who is enrolled in a public school; and

(d) An employee of a local law enforcement agency.

Sec. 4.5. The Legislature hereby finds and declares that it is optimal to have a ratio of at least 1 licensed social worker, school psychologist or other certified or licensed mental or behavioral health professional per 250 pupils.

Sec. 5. 1. The Department shall employ licensed social workers, school psychologists or other certified or licensed mental or behavioral health professionals and make them available to provide services at public schools in this State, as necessary.

2. If a licensed social worker is employed or retained to provide services to pupils at a public school, he or she shall, without limitation:

- ~~1.1~~ (a) Conduct mental health assessments of pupils;
- ~~1.2~~ (b) Make referrals of pupils to mental health professionals;
- ~~1.3~~ (c) Conduct home visits with families of pupils identified as having been involved in a behavioral incident on the premises of a public school, at an activity sponsored by a public school or on a school bus; and
- ~~1.4~~ (d) Assess the needs of pupils and provide a list of any resources that are available in the community to assist a pupil, including, without limitation, resources available at no charge or at a reduced cost.

3. The State Board shall adopt regulations governing the duties of social workers, school psychologists and other certified or licensed mental or behavioral health professionals employed pursuant to subsection 1. The State Board may adopt regulations requiring the Department to provide additional training to such persons relating to the performance of their duties.

Sec. 6. NRS 392.450 is hereby amended to read as follows:

392.450 1. The board of trustees of each school district and the governing body of each charter school shall provide drills for the pupils in the schools in the school district or the charter schools at least once each month during the school year to instruct those pupils in the appropriate procedures to be followed in the event of a **lockdown**, fire or other emergency . ~~[-except a crisis governed by NRS 392.600 to 392.656, inclusive.-]~~ Not more than three of ~~those~~ the drills provided pursuant to this subsection may include instruction in the appropriate procedures to be followed in the event of a chemical explosion, related emergencies and other natural disasters. **At least one-half of the drills provided pursuant to this subsection must include instruction in appropriate procedures to be followed in the event of a lockdown.**

2. In all cities or towns , ~~[-which have regularly organized, paid fire departments or voluntary fire departments,-]~~ the drills required by subsection 1 must be conducted under the supervision of the ~~[-]~~ **chief of the fire department of the city or town, if the city or town has a regularly organized, paid fire department or voluntary fire department, and the:**

(a) Person designated for this purpose by the board of trustees of the school district or the governing body of a charter school ~~[-and]~~ **in a county whose population is less than 100,000; or**

(b) ~~[-Chief of the fire department of the city or town.-]~~ **Emergency manager designated pursuant to section 3 of this act in a county whose population is 100,000 or more.**

3. A diagram of the approved escape route and any other information related to the drills required by subsection 1 which is approved by the chief of the fire department or, if there is no fire department, the State Fire Marshal must be kept posted in every classroom of every public school by the principal or teacher in charge thereof.

4. The principal, teacher or other person in charge of each school building shall cause the provisions of this section to be enforced.

5. Any violation of the provisions of this section is a misdemeanor.

6. ~~As used in this section, "lockdown" means a circumstance in which the occupants of a building are positioned behind secured openings and isolated from threats.~~ As used in this section, "lockdown" has the meaning ascribed to it in section 2.25 of this act.

Sec. 7. NRS 392.600 is hereby amended to read as follows:

392.600 As used in NRS 392.600 to 392.656, inclusive, ~~and sections 4, 4 and 2.25 to 5, inclusive of this act~~, unless the context otherwise requires, the words and terms defined in NRS 392.604 to 392.612, inclusive, and sections 2.25 and 2.5 of this act have the meanings ascribed to them in those sections.

Sec. 7.5. NRS 392.620 is hereby amended to read as follows:

392.620 1. Each development committee established by the board of trustees of a school district shall develop one plan to be used by all the public schools other than the charter schools in the school district in responding to a crisis or an emergency. Each development committee established by the governing body of a charter school shall develop a plan to be used by the charter school in responding to a crisis or an emergency. Each development committee shall, when developing the plan, consult with:

(a) The local social service agencies and local law enforcement agencies in the county in which its school district or charter school is located.

(b) If the school district has an emergency manager designated pursuant to section 3 of this act, the emergency manager.

(c) If the school district has school resource officers, a school resource officer or a person designated by him or her.

(d) If the school district has school police officers, the chief of school police of the school district or a person designated by him or her.

(e) The director of the local organization for emergency management or, if there is no local organization for emergency management, with the Chief of the Division of Emergency Management of the Department of Public Safety or his or her designee.

2. The plan developed pursuant to subsection 1 must include, without limitation, a procedure for:

(a) Assisting persons within a school in the school district or the charter school to communicate with each other;

(b) Assisting persons within a school in the school district or the charter school to communicate with persons located outside the school, including, without limitation, relatives of pupils and relatives of employees of the school, the news media and persons from local, state or federal agencies that are responding to a crisis or an emergency;

(c) Effective communication and interoperability among federal, state and local law enforcement and other first responders;

(d) Immediately responding to a crisis or an emergency and for responding during the period after a crisis or an emergency has concluded, including, without limitation, a crisis or an emergency that results in immediate physical harm to a pupil or employee of a school in the school district or the charter school;

~~[(d)]~~ (e) Assisting pupils of a school in the school district or the charter school, employees of the school and relatives of such pupils and employees to move safely within and away from the school, including, without limitation, a procedure for evacuating the school and a procedure for securing the school ~~to~~ ~~and~~

~~[(e)]~~ in the event of a lockdown;

(f) Assisting any person with an intellectual or physical disability, including, without limitation, a pupil or teacher, who is on school property to move safely within and away from the school, including, without limitation, a procedure for assisting such a pupil or person with evacuating the school or participating in a lockdown; and

(g) Enforcing discipline within a school in the school district or the charter school and for obtaining and maintaining a safe and orderly environment during a crisis or an emergency.

3. Each development committee shall provide a copy of the plan that it develops pursuant to this section to the board of trustees of the school district that established the committee or the governing body of the charter school that established the committee.

4. Except as otherwise provided in NRS 392.632 and 392.636, each public school, including, without limitation, each charter school, must comply with the plan developed for it pursuant to this section.

Sec. 8. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 9. This act becomes effective on July 1, 2015.

Assemblywoman Woodbury moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 227.

Bill read second time.

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

Amendment No. 243.

AN ACT relating to professions; revising provisions governing certain reporting requirements for the Board of Medical Examiners; revising provisions governing the maintenance of the Internet website maintained by the Board of Medical Examiners; revising the requirements for licensure by the Board of Medical Examiners; revising provisions governing certain examinations to determine the competency of a physician, osteopathic physician or physician assistant; authorizing the issuance of a restricted

license to practice medicine to a physician licensed in another state under certain circumstances; revising provisions governing disciplinary action or the denial of licensure by the Board of Medical Examiners or the State Board of Osteopathic Medicine; **revising the definition of sentinel event for certain purposes;** revising provisions governing the summary suspension of a license by the Board of Medical Examiners or the State Board of Osteopathic Medicine; revising certain procedural provisions governing the filing of a formal complaint against a licensee by the Board of Medical Examiners or the State Board of Osteopathic Medicine; revising provisions authorizing the Board of Medical Examiners and the State Board of Osteopathic Medicine to make service of process on a licensee; subjecting licensees of the Board of Medical Examiners and the State Board of Osteopathic Medicine to disciplinary and administrative action for self-reporting a violation of a law, rule or regulation; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally provides for the licensure and regulation of physicians, physician assistants, perfusionists and practitioners of respiratory care by the Board of Medical Examiners and of osteopathic physicians and physician assistants by the State Board of Osteopathic Medicine. Existing law further prescribes the powers and duties of each board. (Chapters 630 and 633 of NRS)

Existing law requires the Board of Medical Examiners to submit to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the Legislature a biennial report compiling disciplinary action taken by the Board in the previous biennium against any physician for malpractice or negligence. (NRS 630.130) **Section 1** of this bill requires the Board to include in the biennial report any disciplinary action taken against a physician assistant, perfusionist or practitioner of respiratory care for malpractice or negligence.

Existing law provides for the maintenance of an Internet website by the Board of Medical Examiners. (NRS 630.144) **Section 2** of this bill requires a member or employee of the Board to submit certain information which is proposed for placement on the Internet website to the Executive Director and the Board for approval before placing the information on the Internet website.

Existing law establishes the requirements for licensure by the Board of Medical Examiners and further authorizes the Board to waive certain requirements for licensure under certain circumstances. (NRS 630.160, 630.263, 630.264) **Sections 3, 5 and 6** of this bill authorize the Board to issue a license to certain qualified applicants who have received education or training in a program approved by the Royal College of Physicians and Surgeons of Canada, the Collège des médecins du Québec or the College of Family Physicians of Canada.

Existing law authorizes the Board of Medical Examiners and the State Board of Osteopathic Medicine to require a licensee to take an examination to test

medical competency under certain circumstances. (NRS 630.257, 630.318, 633.529) **Section 4** of this bill authorizes the Board of Medical Examiners to require a licensee to take the examination if the licensee has not engaged in the practice of medicine for a period of more than 24 consecutive months. **Sections 12 and 22** of this bill authorize the Board of Medical Examiners and the State Board of Osteopathic Medicine, or an investigative committee of the respective Board, to require a physician, osteopathic physician or physician assistant to undergo an examination to test the competency of the licensee to practice medicine or osteopathic medicine, respectively. **Sections 12 and 22** further provide that the testimony or reports of the person conducting the examination are not privileged communications.

Existing law authorizes the Board of Medical Examiners to issue a restricted license to practice medicine under certain circumstances. (NRS 630.2645) Section 6.3 of this bill authorizes the Board to issue a restricted license to a physician who is licensed in another state.

Existing law requires each holder of a license to practice medicine to register on or before July 1 of each odd-numbered year and provides that each license issued will expire, if not renewed, on July 1 of each odd-numbered year. (NRS 630.267, 630.2695) Sections 6.5 and 6.7 of this bill revise this date to June 30 of each odd-numbered year.

Existing law requires each holder of a license to practice medicine or osteopathic medicine to report information concerning certain sentinel events. (NRS 630.30665, 633.524) Sections 11 and 21 of this bill revise the definition of sentinel event to incorporate the most current list of serious reportable events in health care published by the National Quality Forum.

Existing law provides that certain acts committed by a person licensed by the Board of Medical Examiners or the State Board of Osteopathic Medicine constitute grounds for disciplinary action or denial of licensure by the respective board or criminal prosecution. (NRS 630.306-630.3065, 630.30665, 630.342, 633.041, 633.131, 633.511, 633.524, 633.625) **Sections 8-11, 15, 18-21 and 24** of this bill revise these provisions as they relate to the state of mind required for the specified acts to constitute grounds for disciplinary action or prosecution, as applicable.

Sections 13 and 23 of this bill revise provisions relating to the summary suspension of the license of a physician, perfusionist, physician assistant or practitioner of respiratory care by the Board of Medical Examiners, or the license of an osteopathic physician or physician assistant by the State Board of Osteopathic Medicine, pending the conclusion of a hearing to consider a formal complaint against the licensee. (NRS 630.326, 633.581) **Sections 13 and 23** also require the respective Board to reinstate the license of the licensee under certain circumstances.

Existing law establishes the procedure by which a formal complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care is filed and reviewed by the Board of Medical Examiners. (NRS 630.339) **Section 14** of this bill: (1) authorizes the legal counsel for the Board of Medical

Examiners to sign a formal complaint; (2) authorizes rather than requires a respondent to file an answer to a formal complaint; and (3) authorizes the Board or an investigative committee of the Board to proceed with adjudicating the complaint if a respondent fails timely to file an answer.

Existing law provides the manner in which the Board of Medical Examiners and the State Board of Osteopathic Medicine may make service of process upon a licensee. (NRS 630.344, 633.631) **Sections 16 and 25** of this bill authorize the Presidents of the Board of Medical Examiners and the State Board of Osteopathic Medicine, respectively, to cause notice of certain actions to be published in certain newspapers if personal service on a licensee cannot be made. **Sections 16 and 25** further authorize the respective Board to make service of process on a licensee electronically if the licensee consents to electronic service of process in writing.

Sections 17 and 26 of this bill authorize the Board of Medical Examiners and the State Board of Osteopathic Medicine, respectively, to take administrative or disciplinary action against a licensee for disclosing to or cooperating with a governmental entity with respect to a violation of any law, rule or regulation by the licensee. (NRS 630.364, 633.691)

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

Section 1. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

- (a) Enforce the provisions of this chapter;
- (b) Establish by regulation standards for licensure under this chapter;
- (c) Conduct examinations for licensure and establish a system of scoring for those examinations;
- (d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and
- (e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

- (a) Disciplinary action taken by the Board during the previous biennium against ~~physicians~~ **any licensee** for malpractice or negligence;
- (b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections 3 and 6 of NRS 630.307 and NRS 690B.250 and 690B.260; and
- (c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and

types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

↪ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 2. NRS 630.144 is hereby amended to read as follows:

630.144 1. The Board shall maintain a website on the Internet or its successor.

2. Except as otherwise provided in this section, ***a member or employee of the Board*** ~~and its members and employees~~ shall not place any information on the ***Internet*** website maintained by the Board ~~unless~~ ***without the approval of the Executive Director and the Board . [.] A member or employee of the Board shall submit any information proposed to be placed on the Internet website to the Executive Director for approval. Upon approving the proposal, the Executive Director shall present the proposal to the Board for approval at [a regular] its next regularly scheduled meeting . [.] approves the placement of the information on the website.***

3. The Board shall place on ~~the~~ ***its Internet*** website, without having to approve the placement at a meeting:

(a) Each application form for the issuance or renewal of a license issued by the Board pursuant to this chapter.

(b) A list of questions that are frequently asked concerning the processes of the Board and the answers to those questions.

(c) An alphabetical list, by last name, of each physician and a brief description of each disciplinary action, if any, taken against the physician, in this State and elsewhere, which relates to the practice of medicine and which is noted in the records of the Board. The Board shall include, as part of the list on the ***Internet*** website, the name of each physician whose license has been revoked by the Board. The Board shall make the list on the ***Internet*** website easily accessible and user friendly for the public.

(d) All financial reports received by the Board.

(e) All financial reports prepared by the Board.

(f) Any other information ***that the Board is*** required to ~~be placed~~ ***place on [the] its Internet*** website ~~by~~ ***pursuant to*** any other provision of law.

Sec. 3. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing the person to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.266, inclusive, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of the licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of the licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education ~~for the Coordinating Council of Medical Education of the Canadian Medical Association;~~ ***the Royal College of Physicians and Surgeons of Canada, the Collège des médecins du Québec or the College of Family Physicians of Canada, or their successor organizations;*** or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education;

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; or

(3) Is a resident who is enrolled in a progressive postgraduate training program in the United States or Canada approved by the Board, the Accreditation Council for Graduate Medical Education ~~for the Coordinating Council of Medical Education of the Canadian Medical Association;~~ ***the Royal College of Physicians and Surgeons of Canada, the Collège des médecins du Québec or the College of Family Physicians of Canada, or their successor organizations,*** has completed at least 24 months of the program and

has committed, in writing, to the Board that he or she will complete the program; and

(e) Passes a written or oral examination, or both, as to his or her qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

3. The Board may issue a license to practice medicine after the Board verifies, through any readily available source, that the applicant has complied with the provisions of subsection 2. The verification may include, but is not limited to, using the Federation Credentials Verification Service. If any information is verified by a source other than the primary source of the information, the Board may require subsequent verification of the information by the primary source of the information.

4. Notwithstanding any provision of this chapter to the contrary, if, after issuing a license to practice medicine, the Board obtains information from a primary or other source of information and that information differs from the information provided by the applicant or otherwise received by the Board, the Board may:

- (a) Temporarily suspend the license;
- (b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;
- (c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;
- (d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or
- (e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:
 - (1) Placing the licensee on probation for a specified period with specified conditions;
 - (2) Administering a public reprimand;
 - (3) Limiting the practice of the licensee;
 - (4) Suspending the license for a specified period or until further order of the Board;
 - (5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;
 - (6) Requiring supervision of the practice of the licensee;
 - (7) Imposing an administrative fine not to exceed \$5,000;
 - (8) Requiring the licensee to perform community service without compensation;
 - (9) Requiring the licensee to take a physical or mental examination or an examination testing his or her competence to practice medicine;
 - (10) Requiring the licensee to complete any training or educational requirements specified by the Board; and

(11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

5. If the Board determines after reviewing the differing information to allow the license to remain in active status, the action of the Board is not a disciplinary action and must not be reported to any national database. If the Board determines after reviewing the differing information to declare the license void, its action shall be deemed a disciplinary action and shall be reportable to national databases.

Sec. 4. NRS 630.257 is hereby amended to read as follows:

630.257 If a licensee does not **engage in the** practice ~~of allopathic~~ of medicine for a period of more than ~~112~~ **24** consecutive months, the Board may require the licensee to take the same examination to test medical competency as that given to applicants for a license.

Sec. 5. NRS 630.263 is hereby amended to read as follows:

630.263 1. If the Governor determines that there are critically unmet needs with regard to the number of physicians who are practicing a medical specialty within this State, the Governor may declare that a state of critical medical need exists for that medical specialty. The Governor may, but is not required to, limit such a declaration to one or more geographic areas within this State.

2. In determining whether there are critically unmet needs with regard to the number of physicians who are practicing a medical specialty, the Governor may consider, without limitation:

(a) Any statistical data analyzing the number of physicians who are practicing the medical specialty in relation to the total population of this State or any geographic area within this State;

(b) The demand within this State or any geographic area within this State for the types of services provided by the medical specialty; and

(c) Any other factors relating to the medical specialty that may adversely affect the delivery of health care within this State or any geographic area within this State.

3. If the Governor makes a declaration pursuant to this section, the Board may waive the requirements of paragraph (d) of subsection 2 of NRS 630.160 for an applicant if the applicant:

(a) Intends to practice medicine in one or more of the medical specialties designated by the Governor in the declaration and, if the Governor has limited the declaration to one or more geographic areas within this State, in one or more of those geographic areas;

(b) Has completed at least 1 year of training as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education ~~for the Coordinating Council of Medical Education of the Canadian Medical Association,~~ **the Royal College of Physicians and Surgeons of Canada, the Collège des médecins du Québec**

or the College of Family Physicians of Canada, or their successor organizations, respectively;

(c) Has a minimum of 5 years of practical medical experience as a licensed allopathic physician or such other equivalent training as the Board deems appropriate; and

(d) Meets all other conditions and requirements for a license to practice medicine.

4. Any license issued pursuant to this section is a restricted license, and the person who holds the restricted license may practice medicine in this State only in the medical specialties and geographic areas for which the restricted license is issued.

5. Any person who holds a restricted license issued pursuant to this section and who completes 3 years of full-time practice under the restricted license may apply to the Board for an unrestricted license. In considering an application for an unrestricted license pursuant to this subsection, the Board shall require the applicant to meet all statutory requirements for licensure in effect at the time of application except the requirements of paragraph (d) of subsection 2 of NRS 630.160.

Sec. 6. NRS 630.264 is hereby amended to read as follows:

630.264 1. A board of county commissioners may petition the Board of Medical Examiners to waive the requirements of paragraph (d) of subsection 2 of NRS 630.160 for any applicant intending to practice medicine in a medically underserved area of that county as that term is defined by regulation by the Board of Medical Examiners. The Board of Medical Examiners may waive that requirement and issue a license if the applicant:

(a) Has completed at least 1 year of training as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education ~~for the Coordinating Council of Medical Education of the Canadian Medical Association,~~ **the Royal College of Physicians and Surgeons of Canada, the Collège des médecins du Québec or the College of Family Physicians of Canada, or their successor organizations,** respectively;

(b) Has a minimum of 5 years of practical medical experience as a licensed allopathic physician or such other equivalent training as the Board deems appropriate; and

(c) Meets all other conditions and requirements for a license to practice medicine.

2. Any person licensed pursuant to subsection 1 must be issued a license to practice medicine in this State restricted to practice in the medically underserved area of the county which petitioned for the waiver only. A person may apply to the Board of Medical Examiners for renewal of that restricted license every 2 years after being licensed.

3. Any person holding a restricted license pursuant to subsection 1 who completes 3 years of full-time practice under the restricted license may apply to the Board for an unrestricted license. In considering an application for an

unrestricted license pursuant to this subsection, the Board shall require the applicant to meet all statutory requirements for licensure in effect at the time of application except the requirements of paragraph (d) of subsection 2 of NRS 630.160.

Sec. 6.3. NRS 630.2645 is hereby amended to read as follows:

630.2645 1. Except as otherwise provided in NRS 630.161, the Board may issue a restricted license to teach, research or practice medicine to a person if:

(a) The person:

(1) Submits to the Board:

(I) Proof that the person is a graduate of a foreign medical school, as provided in NRS 630.195 ~~or~~, **or a physician who has previously been issued an unrestricted license to practice medicine in any state of the United States and that the physician has never been the subject of disciplinary action by a medical board in any jurisdiction;**

(II) Proof that the person teaches, researches or practices medicine ~~outside the United States;~~ and

(III) Any other documentation or proof of qualifications required by the Board; and

(2) Intends to teach, research or practice medicine at a medical facility, medical research facility or medical school in this State.

(b) Any other documentation or proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A person who applies for a restricted license pursuant to this section is not required to take or pass a written examination concerning his or her qualifications to practice medicine.

3. A person who holds a restricted license issued pursuant to this section may practice medicine in this State only in accordance with the terms and restrictions established by the Board.

4. If a person who holds a restricted license issued pursuant to this section ceases to teach, research or practice medicine in this State at the medical facility, medical research facility or medical school where the person is employed:

(a) The medical facility, medical research facility or medical school, as applicable, shall notify the Board; and

(b) Upon receipt of such notification, the restricted license expires automatically.

5. The Board may renew or modify a restricted license issued pursuant to this section, unless the restricted license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a restricted license to an applicant in accordance with any other provision of this chapter.

7. A restricted license to teach, research or practice medicine may be issued, renewed or modified at a meeting of the Board or between its meetings

by the President and the Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 6.5. NRS 630.267 is hereby amended to read as follows:

630.267 1. Each holder of a license to practice medicine must, on or before ~~July 1,~~ **June 30**, or if ~~July 1,~~ **June 30** is a Saturday, Sunday or legal holiday, on the next business day after ~~July 1,~~ **June 30**, of each odd-numbered year:

(a) Submit a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against him or her during the previous 2 years.

(b) Pay to the Secretary-Treasurer of the Board the applicable fee for biennial registration. This fee must be collected for the period for which a physician is licensed.

(c) Submit all information required to complete the biennial registration.

2. When a holder of a license fails to pay the fee for biennial registration and submit all information required to complete the biennial registration after they become due, his or her license to practice medicine in this State expires. The holder may, within 2 years after the date the license expires, upon payment of twice the amount of the current fee for biennial registration to the Secretary-Treasurer and submission of all information required to complete the biennial registration and after he or she is found to be in good standing and qualified under the provisions of this chapter, be reinstated to practice.

3. The Board shall make such reasonable attempts as are practicable to notify a licensee:

(a) At least once that the fee for biennial registration and all information required to complete the biennial registration are due; and

(b) That his or her license has expired.

↪ A copy of this notice must be sent to the Drug Enforcement Administration of the United States Department of Justice or its successor agency.

Sec. 6.7. NRS 630.2695 is hereby amended to read as follows:

630.2695 1. Each license issued pursuant to NRS 630.2694 expires on ~~July 1,~~ **June 30**, or if ~~July 1,~~ **June 30** is a Saturday, Sunday or legal holiday, on the next business day after ~~July 1,~~ **June 30**, of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to NRS 630.269; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to NRS 630.2691.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to NRS 630.269; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to NRS 630.2692.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his or her license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 7. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have:

(1) A high school diploma; or

(2) A general equivalency diploma or an equivalent document;

(b) Complete an educational program for respiratory care which has been approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or the ~~{Committee}~~ **Commission** on Accreditation for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the National Board for Respiratory Care or its successor organization;

(d) Be certified by the National Board for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself or herself out as qualified to practice respiratory care,

➔ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 8. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or herself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he or she is not competent to perform or which are beyond the scope of his or her training.

6. Performing, without first obtaining the informed consent of the patient or the patient's family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Habitual intoxication from alcohol or dependency on controlled substances.

9. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

10. Failing to comply with the requirements of NRS 630.254.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against the licensee or applicant by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of a license to practice medicine in another jurisdiction.

12. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

13. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

14. Operation of a medical facility at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

➤ This subsection applies to an owner or other principal responsible for the operation of the facility.

15. Failure to comply with the requirements of NRS 630.373.

16. Engaging in any act that is unsafe or unprofessional conduct in accordance with regulations adopted by the Board.

17. Knowingly **or willfully** procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

18. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

Sec. 9. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or **knowingly or willfully** obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

Sec. 10. NRS 630.3065 is hereby amended to read as follows:

630.3065 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. ~~Willful disclosure of~~ **Knowingly or willfully disclosing** a communication privileged pursuant to a statute or court order.

2. ~~Willful failure~~ **Knowingly or willfully failing** to comply with:

(a) A regulation, subpoena or order of the Board or a committee designated by the Board to investigate a complaint against a physician;

(b) A court order relating to this chapter; or

(c) A provision of this chapter.

3. ~~Willful failure~~ **Knowingly or willfully failing** to perform a statutory or other legal obligation imposed upon a licensed physician, including a violation of the provisions of NRS 439B.410.

Sec. 11. NRS 630.30665 is hereby amended to read as follows:

630.30665 1. The Board shall require each holder of a license to practice medicine to submit to the Board, on a form provided by the Board, a report

stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

- (a) At a medical facility as that term is defined in NRS 449.0151; or
- (b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice medicine shall submit the reports required pursuant to subsections 1 and 2:

- (a) At the time the holder of a license renews his or her license; and
- (b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly **or willfully** filing false information in a report constitutes grounds for initiating disciplinary action pursuant to subsection 9 of NRS 630.306.

4. In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.

5. The Board shall:

- (a) Collect and maintain reports received pursuant to subsections 1, 2 and 4;
- (b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and
- (c) Submit to the Division of Public and Behavioral Health a copy of the report submitted pursuant to subsection 1. The Division shall maintain the confidentiality of such reports in accordance with subsection 6.

6. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, 2 or 4 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

7. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

8. In addition to any other remedy or penalty, if a holder of a license to practice medicine fails to submit a report or knowingly **or willfully** files false

information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice medicine with notice and opportunity for a hearing, impose against the holder of a license to practice medicine an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license pursuant to this subsection. The regulations must include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

9. As used in this section:

- (a) "Conscious sedation" has the meaning ascribed to it in NRS 449.436.
- (b) "Deep sedation" has the meaning ascribed to it in NRS 449.437.
- (c) "General anesthesia" has the meaning ascribed to it in NRS 449.438.
- (d) "Sentinel event" ~~[means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.]~~ **has the meaning ascribed to it in NRS 439.830.**

Sec. 12. NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician has raised a reasonable question as to his or her competence to practice medicine with reasonable skill and safety to patients, or if the Board has received a report pursuant to the provisions of NRS 630.3067, 630.3068, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, ~~if the Board or committee~~ **may order that the physician undergo a mental or physical examination , ~~for~~ an examination testing his or her competence to practice medicine ~~by physicians~~ or any other ~~examinations~~ examination** designated by the Board to assist the Board or committee in determining the fitness of the physician to practice medicine.

2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given consent to submit to a mental or physical examination or an examination testing his or her competence to practice medicine when ordered to do so in writing by the Board or an investigative committee of the Board.

(b) The testimony or reports of ~~the examining physicians~~ **a person who conducts an examination of a physician on behalf of the Board or an investigative committee of the Board pursuant to this section** are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination

when directed as provided in this section constitutes an admission of the charges against the physician.

Sec. 13. NRS 630.326 is hereby amended to read as follows:

630.326 1. If an investigation by the Board regarding a physician, perfusionist, physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the ~~{physician, perfusionist, physician assistant or practitioner of respiratory care}~~ **licensee** is at risk of imminent or continued harm, the Board may summarily suspend the license of the ~~{physician, perfusionist, physician assistant or practitioner of respiratory care}~~ **licensee pending the conclusion of a hearing to consider a formal complaint against the licensee.** The order of summary suspension may be issued **only** by the Board ~~{,} or~~ an investigative committee of the Board . ~~{for the Executive Director of the Board after consultation with the President, Vice President or Secretary Treasurer of the Board.}~~

2. If the Board **or an investigative committee of the Board** issues an order summarily suspending the license of a physician, perfusionist, physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing ~~{regarding the matter}~~ not later than ~~{45}~~ **60** days after the date on which the ~~{Board issues the order summarily suspending the license}~~ **order is issued**, unless the Board and the licensee mutually agree to a longer period ~~{,}~~ **, to determine whether a reasonable basis exists to continue the suspension of the license pending the conclusion of a hearing to consider a formal complaint against the licensee. If no formal complaint against the licensee is pending before the Board on the date on which a hearing is held pursuant to this section, the Board shall reinstate the license of the licensee.**

3. If the Board **or an investigative committee of the Board** issues an order **summarily** suspending the license of a ~~{physician, perfusionist, physician assistant or practitioner of respiratory care pending proceedings for disciplinary action}~~ **licensee pursuant to subsection 1** and **the Board** requires the ~~{physician, perfusionist, physician assistant or practitioner of respiratory care}~~ **licensee** to submit to a mental or physical examination or an examination testing his or her competence to practice, the examination must be conducted and the results obtained not later than ~~{60}~~ **30** days after the ~~{Board issues its}~~ order ~~{,}~~ **is issued.**

Sec. 14. NRS 630.339 is hereby amended to read as follows:

630.339 1. If a committee designated by the Board to conduct an investigation of a complaint decides to proceed with disciplinary action, it shall bring charges against the licensee by filing a formal complaint. The formal complaint must include a written statement setting forth the charges alleged and setting forth in concise and plain language each act or omission of the respondent upon which the charges are based. The formal complaint must be prepared with sufficient clarity to ensure that the respondent is able to prepare a defense. The formal complaint must specify any applicable law or regulation that the respondent is alleged to have violated. The formal complaint may be

signed by the chair of the investigative committee or the ~~{Executive Director of the Board acting in his or her official capacity.}~~ **legal counsel for the Board.**

2. The respondent ~~{shall}~~ **may** file an answer to the formal complaint within 20 days after service of the complaint upon the respondent. ~~{The}~~ **An** answer must state in concise and plain language the respondent's defenses to each charge set forth in the complaint and must admit or deny the averments stated in the complaint. If a party fails to file an answer within the time prescribed, the party shall be deemed to have denied generally the allegations of the formal complaint ~~{and the Board or an investigative committee of the Board may proceed pursuant to this section in the same manner as if the answer were timely filed.}~~

3. Within 20 days after the filing of ~~{the}~~ **an** answer ~~{or 20 days after the date on which an answer is due, whichever is earlier,}~~ the parties shall hold an early case conference at which the parties and ~~{the}~~ **a** hearing officer appointed by the Board or a member of the Board must preside. At the early case conference, the parties shall in good faith:

(a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, panel of the Board or the Board, including the estimated duration of the hearing;

(b) Set dates:

(1) By which all documents must be exchanged;

(2) By which all prehearing motions and responses thereto must be filed;

(3) On which to hold the prehearing conference; and

(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

4. If the Board receives a report pursuant to subsection 5 of NRS 228.420, such a hearing must be held within 30 days after receiving the report. The Board shall notify the licensee of the charges brought against him or her, the time and place set for the hearing, and the possible sanctions authorized in NRS 630.352.

5. A formal hearing must be held at the time and date set at the early case conference by:

(a) The Board;

(b) A hearing officer;

(c) A member of the Board designated by the Board or an investigative committee of the Board;

(d) A panel of members of the Board designated by an investigative committee of the Board or the Board;

(e) A hearing officer together with not more than one member of the Board designated by an investigative committee of the Board or the Board; or

(f) A hearing officer together with a panel of members of the Board designated by an investigative committee of the Board or the Board. If the hearing is before a panel, at least one member of the panel must not be a physician.

6. At any hearing at which at least one member of the Board presides, whether in combination with a hearing officer or other members of the Board, the final determinations regarding credibility, weight of evidence and whether the charges have been proven must be made by the members of the Board. If a hearing officer presides together with one or more members of the Board, the hearing officer shall:

- (a) Conduct the hearing;
- (b) In consultation with each member of the Board, make rulings upon any objections raised at the hearing;
- (c) In consultation with each member of the Board, make rulings concerning any motions made during or after the hearing; and
- (d) Within 30 days after the conclusion of the hearing, prepare and file with the Board written findings of fact and conclusions of law in accordance with the determinations made by each member of the Board.

Sec. 15. NRS 630.342 is hereby amended to read as follows:

630.342 1. Any licensee against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the licensee's receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The **knowing or** willful failure of a licensee to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the licensee.

3. The Board has additional grounds for initiating disciplinary action against a licensee if the report from the Federal Bureau of Investigation indicates that the licensee has been convicted of:

- (a) An act that is a ground for disciplinary action pursuant to NRS 630.301 to 630.3066, inclusive; or
- (b) A violation of NRS 630.400.

Sec. 16. NRS 630.344 is hereby amended to read as follows:

630.344 1. Except as otherwise provided in subsection 2, service of process under this chapter must be made on a licensee personally, or by registered or certified mail with return receipt requested addressed to the licensee at his or her last known address. If personal service cannot be made and if notice by mail is returned undelivered, the **President or** Secretary-Treasurer of the Board shall cause notice to be published once a week for 4 consecutive weeks in a newspaper published in the county of the last known address of the licensee or, if no newspaper is published in that county, then in a newspaper widely distributed in that county.

2. In lieu of the methods of service of process set forth in subsection 1, if the Board obtains written consent from the licensee, service of process under this chapter may be made by electronic mail on ~~to the licensee who engages in the practice of medicine as described in subsection 3 of NRS 630.020.~~ **at an electronic mail address designated by the licensee in the written consent.**

3. Proof of service of process or publication of notice made under this chapter must be filed with the Board and **may be** recorded in the minutes of the Board.

Sec. 17. NRS 630.364 is hereby amended to read as follows:

630.364 1. Any person or organization who furnishes information concerning an applicant for a license or a licensee in good faith in accordance with the provisions of this chapter is immune from any civil action for furnishing that information.

2. The Board and any of its members and its staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and the employees or volunteers of a diversion program are immune from any civil liability for:

(a) Any decision or action taken in good faith in response to information acquired by the Board.

(b) Disseminating information concerning an applicant for a license or a licensee to other boards or agencies of the State, the Attorney General, any hospitals, medical societies, insurers, employers, patients and their families or any law enforcement agency.

3. ~~The~~ **Except as otherwise provided in subsection 4, the** Board shall not commence an investigation, impose any disciplinary action or take any other adverse action against a physician for:

(a) Disclosing to a governmental entity a violation of any law, rule or regulation by an applicant for a license to practice medicine or by a physician; or

(b) Cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation, including, without limitation, providing testimony concerning the violation.

4. **A physician who discloses information to or cooperates with a governmental entity pursuant to subsection 3 with respect to the violation of any law, rule or regulation by the physician is subject to investigation and any other administrative or disciplinary action by the Board under the provisions of this chapter for such violation.**

5. As used in this section:

(a) “Diversion program” means a program approved by the Board to correct a licensee’s alcohol or drug dependence or any other impairment.

(b) “Governmental entity” includes, without limitation:

(1) A federal, state or local officer, employee, agency, department, division, bureau, board, commission, council, authority or other subdivision or entity of a public employer;

(2) A federal, state or local employee, committee, member or commission of the Legislative Branch of Government;

(3) A federal, state or local representative, member or employee of a legislative body or a county, town, village or any other political subdivision or civil division of the State;

(4) A federal, state or local law enforcement agency or prosecutorial office, or any member or employee thereof, or police or peace officer; and

(5) A federal, state or local judiciary, or any member or employee thereof, or grand or petit jury.

Sec. 18. NRS 633.041 is hereby amended to read as follows:

633.041 “Gross malpractice” means malpractice where the failure to exercise the requisite degree of care, diligence or skill consists of:

1. Performing surgery upon or otherwise ministering to a patient while the osteopathic physician is under the influence of alcohol or any controlled substance;

2. Gross negligence;

3. ~~Willful~~ **Knowing or willful** disregard of established medical procedures; or

4. ~~Willful~~ **Knowing or willful** and consistent use of medical procedures, services or treatment considered by osteopathic physicians in the community to be inappropriate or unnecessary in the cases where used.

Sec. 19. NRS 633.131 is hereby amended to read as follows:

633.131 1. “Unprofessional conduct” includes:

(a) ~~Willfully~~ **Knowingly or willfully** making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or to practice as a physician assistant, or in applying for the renewal of a license to practice osteopathic medicine or to practice as a physician assistant.

(b) Failure of a person who is licensed to practice osteopathic medicine to identify himself or herself professionally by using the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his or her professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine or in practice as a physician assistant, or the aiding or abetting of any unlicensed person to practice osteopathic medicine or to practice as a physician assistant.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body, other than the use of silicone oil to repair a retinal detachment.

(j) ~~Willful disclosure of~~ **Knowingly or willfully disclosing** a communication privileged pursuant to a statute or court order.

(k) ~~Willful disobedience of the~~ **Knowingly or willfully disobeying** regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or **knowingly or** willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

(r) Providing false, misleading or deceptive information to the Board in connection with an investigation conducted by the Board.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in

proportion to the services performed and the responsibility assumed by each person; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 20. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine or practice as a physician assistant;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

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

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

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

(i) Any offense involving moral turpitude.

3. The suspension of a license to practice osteopathic medicine or to practice as a physician assistant by any other jurisdiction.

4. Malpractice or gross malpractice, which may be evidenced by a claim of malpractice settled against a licensee.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of NRS 633.694.

9. Operation of a medical facility, as defined in NRS 449.0151, at any time during which:

(a) The license of the facility is suspended or revoked; or

(b) An act or omission occurs which results in the suspension or revocation of the license pursuant to NRS 449.160.

↪ This subsection applies to an owner or other principal responsible for the operation of the facility.

10. Failure to comply with the provisions of subsection 2 of NRS 633.322.

11. Signing a blank prescription form.

12. Knowingly **or willfully** procuring or administering a controlled substance or a dangerous drug as defined in chapter 454 of NRS that is not

approved by the United States Food and Drug Administration, unless the unapproved controlled substance or dangerous drug:

(a) Was procured through a retail pharmacy licensed pursuant to chapter 639 of NRS;

(b) Was procured through a Canadian pharmacy which is licensed pursuant to chapter 639 of NRS and which has been recommended by the State Board of Pharmacy pursuant to subsection 4 of NRS 639.2328; or

(c) Is marijuana being used for medical purposes in accordance with chapter 453A of NRS.

13. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

14. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

15. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or **knowingly or** willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

16. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board within 30 days after the date the licensee knows or has reason to know of the violation.

17. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against the licensee or applicant, other than a minor traffic violation, in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

18. Engaging in any act that is unsafe in accordance with regulations adopted by the Board.

19. Failure to comply with the provisions of NRS 633.165.

20. Failure to supervise adequately a medical assistant pursuant to the regulations of the Board.

Sec. 21. NRS 633.524 is hereby amended to read as follows:

633.524 1. The Board shall require each holder of a license to practice osteopathic medicine issued pursuant to this chapter to submit to the Board, on a form provided by the Board, and in the format required by the Board by regulation, a report stating the number and type of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his or her office or any other facility, excluding any surgical care performed:

(a) At a medical facility as that term is defined in NRS 449.0151; or

(b) Outside of this State.

2. In addition to the report required pursuant to subsection 1, the Board shall require each holder of a license to practice osteopathic medicine to submit a report to the Board concerning the occurrence of any sentinel event arising

from any surgery described in subsection 1. The report must be submitted in the manner prescribed by the Board which must be substantially similar to the manner prescribed by the State Board of Health for reporting information pursuant to NRS 439.835.

3. Each holder of a license to practice osteopathic medicine shall submit the reports required pursuant to subsections 1 and 2:

(a) At the time the holder of the license renews his or her license; and

(b) Whether or not the holder of the license performed any surgery described in subsection 1. Failure to submit a report or knowingly **or willfully** filing false information in a report constitutes grounds for initiating disciplinary action pursuant to NRS 633.511.

4. In addition to the reports required pursuant to subsections 1 and 2, the Board shall require each holder of a license to practice osteopathic medicine to submit a report to the Board concerning the occurrence of any sentinel event arising from any surgery described in subsection 1 within 14 days after the occurrence of the sentinel event. The report must be submitted in the manner prescribed by the Board.

5. The Board shall:

(a) Collect and maintain reports received pursuant to subsections 1, 2 and 4;

(b) Ensure that the reports, and any additional documents created from the reports, are protected adequately from fire, theft, loss, destruction and other hazards, and from unauthorized access; and

(c) Submit to the Division of Public and Behavioral Health a copy of the report submitted pursuant to subsection 1. The Division shall maintain the confidentiality of such reports in accordance with subsection 6.

6. Except as otherwise provided in NRS 239.0115, a report received pursuant to subsection 1, 2 or 4 is confidential, not subject to subpoena or discovery, and not subject to inspection by the general public.

7. The provisions of this section do not apply to surgical care requiring only the administration of oral medication to a patient to relieve the patient's anxiety or pain, if the medication is not given in a dosage that is sufficient to induce in a patient a controlled state of depressed consciousness or unconsciousness similar to general anesthesia, deep sedation or conscious sedation.

8. In addition to any other remedy or penalty, if a holder of a license to practice osteopathic medicine fails to submit a report or knowingly **or willfully** files false information in a report submitted pursuant to this section, the Board may, after providing the holder of a license to practice osteopathic medicine with notice and opportunity for a hearing, impose against the holder of a license an administrative penalty for each such violation. The Board shall establish by regulation a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the holder of the license to practice osteopathic medicine. The regulations must

include standards for determining the severity of the violation and may provide for a more severe penalty for multiple violations.

9. As used in this section:

- (a) “Conscious sedation” has the meaning ascribed to it in NRS 449.436.
- (b) “Deep sedation” has the meaning ascribed to it in NRS 449.437.
- (c) “General anesthesia” has the meaning ascribed to it in NRS 449.438.
- (d) “Sentinel event” ~~[means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including, without limitation, any process variation for which a recurrence would carry a significant chance of serious adverse outcome. The term includes loss of limb or function.]~~ **has the meaning ascribed to it in NRS 439.830.**

Sec. 22. NRS 633.529 is hereby amended to read as follows:

633.529 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board **or an investigative committee of the Board** receives a report pursuant to the provisions of NRS 633.526, 633.527, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against an osteopathic physician or physician assistant regarding an action or claim for malpractice, or that such an action or claim against the osteopathic physician or physician assistant has been resolved by settlement, the Board **or committee** may order the osteopathic physician or physician assistant to undergo a mental or physical examination or any other examination designated by the Board to test his or her competence to practice osteopathic medicine or to practice as a physician assistant, as applicable. An examination conducted pursuant to this subsection must be conducted by ~~osteopathic physicians~~ **a person** designated by the Board.

2. For the purposes of this section:

(a) An osteopathic physician or physician assistant who applies for a license or who holds a license under this chapter is deemed to have given consent to submit to a mental or physical examination or an examination testing his or her competence to practice osteopathic medicine or to practice as a physician assistant, as applicable, pursuant to a written order by the Board.

(b) The testimony or reports of ~~the examining osteopathic physician~~ **a person who conducts an examination of an osteopathic physician or physician assistant on behalf of the Board pursuant to this section** are not privileged communications.

Sec. 23. NRS 633.581 is hereby amended to read as follows:

633.581 1. If an investigation by the Board of an osteopathic physician or physician assistant reasonably determines that the health, safety or welfare of the public or any patient served by the osteopathic physician or physician assistant is at risk of imminent or continued harm, the Board may summarily suspend the license of the ~~osteopathic physician or physician assistant~~ **licensee pending the conclusion of a hearing to consider a formal complaint against the licensee.** The order of summary suspension may be issued **only** by the Board ~~or~~ **or** an investigative committee of the Board ~~for the Executive~~

~~Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.]~~

2. If the Board **or an investigative committee of the Board** issues an order summarily suspending the license of ~~an osteopathic physician or physician assistant~~ **a licensee** pursuant to subsection 1, the Board shall hold a hearing ~~[regarding the matter]~~ not later than ~~[45]~~ **60** days after the date on which the ~~[Board issues the order summarily suspending the license]~~ **order is issued**, unless the Board and the licensee mutually agree to a longer period ~~[1]~~, **to determine whether a reasonable basis exists to continue the suspension of the license pending the conclusion of a hearing to consider a formal complaint against the licensee. If no formal complaint against the licensee is pending before the Board on the date on which a hearing is held pursuant to this section, the Board shall reinstate the license of the licensee.**

3. Notwithstanding the provisions of chapter 622A of NRS, if the Board **or an investigative committee of the Board** issues an order summarily suspending the license of an osteopathic physician or physician assistant ~~[pending a proceeding for disciplinary action]~~ **pursuant to subsection 1** and **the Board** requires the ~~[osteopathic physician or physician assistant]~~ **licensee** to submit to a mental or physical examination or a medical competency examination, the examination must be conducted and the results must be obtained not later than ~~[60]~~ **30** days after the ~~[Board issues the]~~ order ~~[1]~~ **is issued.**

Sec. 24. NRS 633.625 is hereby amended to read as follows:

633.625 1. Any licensee against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the licensee's receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The **knowing or** willful failure of a licensee to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the licensee.

3. The Board has additional grounds for initiating disciplinary action against a licensee if the report from the Federal Bureau of Investigation indicates that the licensee has been convicted of:

- (a) An act that is a ground for disciplinary action pursuant to NRS 633.511;
- or
- (b) A felony set forth in NRS 633.741.

Sec. 25. NRS 633.631 is hereby amended to read as follows:

633.631 Except as otherwise provided in **subsection 2 and** chapter 622A of NRS:

1. Service of process made under this chapter must be either personal or by registered or certified mail with return receipt requested, addressed to the osteopathic physician or physician assistant at his or her last known address,

as indicated in the records of the Board. If personal service cannot be made and if mail notice is returned undelivered, the **President or** Secretary of the Board shall cause a notice of hearing to be published once a week for 4 consecutive weeks in a newspaper published in the county of the last known address of the osteopathic physician or physician assistant or, if no newspaper is published in that county, in a newspaper widely distributed in that county.

2. ***In lieu of the methods of service of process set forth in subsection 1, if the Board obtains written consent from the osteopathic physician or physician assistant, service of process under this chapter may be made by electronic mail on the licensee at an electronic mail address designated by the licensee in the written consent.***

3. Proof of service of process or publication of notice made under this chapter must be filed with the Secretary of the Board and ~~must~~ **may** be recorded in the minutes of the Board.

Sec. 26. NRS 633.691 is hereby amended to read as follows:

633.691 1. In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, an employee or volunteer of a diversion program specified in NRS 633.561, or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician or physician assistant for gross malpractice, malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or assistance or any consequential damages, if the person or organization acted in good faith.

2. ~~The~~ ***Except as otherwise provided in subsection 3, the*** Board shall not commence an investigation, impose any disciplinary action or take any other adverse action against an osteopathic physician or physician assistant for:

(a) Disclosing to a governmental entity a violation of a law, rule or regulation by an applicant for a license to practice osteopathic medicine or to practice as a physician assistant, or by an osteopathic physician or physician assistant; or

(b) Cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation, including, without limitation, providing testimony concerning the violation.

3. ***An osteopathic physician or physician assistant who discloses information to or cooperates with a governmental entity pursuant to subsection 2 with respect to the violation of any law, rule or regulation by the osteopathic physician or physician assistant is subject to investigation and any other administrative or disciplinary action by the Board under the provisions of this chapter for such violation.***

4. As used in this section, “governmental entity” includes, without limitation:

(a) A federal, state or local officer, employee, agency, department, division, bureau, board, commission, council, authority or other subdivision or entity of a public employer;

(b) A federal, state or local employee, committee, member or commission of the Legislative Branch of Government;

(c) A federal, state or local representative, member or employee of a legislative body or a county, town, village or any other political subdivision or civil division of the State;

(d) A federal, state or local law enforcement agency or prosecutorial office, or any member or employee thereof, or police or peace officer; and

(e) A federal, state or local judiciary, or any member or employee thereof, or grand or petit jury.

Sec. 27. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 234.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 407.

ASSEMBLYMEN MUNFORD, HICKEY, DIAZ, THOMPSON, FLORES; ELLIOT ANDERSON, ARAUJO, BENITEZ-THOMPSON, BUSTAMANTE ADAMS, **JOINER**, KIRKPATRICK, NEAL, OHRENSCHALL, SPRINKLE, SWANK, AND WHEELER.

JOINT SPONSORS: SENATORS MANENDO, ATKINSON, DENIS, KIHUEN, FORD; HARRIS AND SPEARMAN.

AN ACT relating to education; requiring the ~~{State Board of Education to adopt a program of}~~ **standards of content and performance for a course of study in social studies established by the Council to Establish Academic Standards for Public Schools to include** multicultural education; ~~{for certain pupils,}~~ requiring certain licensed teachers to complete a course in multicultural education for renewal of their license; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Council to Establish Academic Standards for Public Schools to establish standards of content and performance for certain courses of study, including social studies. (NRS 389.520) Section ~~{1}~~ **1.5** of this bill requires **: (1) the {State Board of Education to adopt a program of} standards of content and performance for social studies to include** multicultural education ~~{and requires the board of trustees of each school district to ensure that the program is provided to pupils enrolled in grades 2 through 12.}~~ **; and (2) the Council to consult with members of the**

community who represent the racial and ethnic diversity of this State in developing such standards.

Section 2 of this bill requires a licensed teacher who ~~submits an~~ **is initially licensed on or after July 1, 2015, to submit with his or her first** application for renewal of his or her license ~~on or after January 1, 2017, to submit~~ proof of the completion of a course in multicultural education. ~~unless the teacher has previously completed such a course.~~ Section 2 also requires the Commission on Professional Standards in Education to prescribe the contents and credits required for such a course in multicultural education.

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

Section 1. ~~Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The State Board shall adopt regulations that prescribe a program of multicultural education, including, without limitation, information relating to contributions made by men and women from various racial and ethnic backgrounds.~~

~~2. The board of trustees of each school district shall ensure that the program prescribed pursuant to subsection 1 is provided to pupils enrolled in grades 2 to 12, inclusive, with particular emphasis for pupils enrolled in elementary school, middle school and junior high school.~~ **(Deleted by amendment.)**

Sec. 1.5. NRS 389.520 is hereby amended to read as follows:

389.520 1. The Council shall:

(a) Establish standards of content and performance, including, without limitation, a prescription of the resulting level of achievement, for the grade levels set forth in subsection ~~3,~~ **4**, based upon the content of each course, that is expected of pupils for the following courses of study:

- (1) English, including reading, composition and writing;
- (2) Mathematics;
- (3) Science;
- (4) Social studies, which includes only the subjects of history, geography, economics and government;
- (5) The arts;
- (6) Computer education and technology;
- (7) Health; and
- (8) Physical education.

(b) Establish a schedule for the periodic review and, if necessary, revision of the standards of content and performance. The review must include, without limitation, the review required pursuant to NRS 389.570 of the results of pupils on the examinations administered pursuant to NRS 389.550.

(c) Assign priorities to the standards of content and performance relative to importance and degree of emphasis and revise the standards, if necessary, based upon the priorities.

2. The standards for computer education and technology must include a policy for the ethical, safe and secure use of computers and other electronic devices. The policy must include, without limitation:

(a) The ethical use of computers and other electronic devices, including, without limitation:

(1) Rules of conduct for the acceptable use of the Internet and other electronic devices; and

(2) Methods to ensure the prevention of:

(I) Cyber-bullying;

(II) Plagiarism; and

(III) The theft of information or data in an electronic form;

(b) The safe use of computers and other electronic devices, including, without limitation, methods to:

(1) Avoid cyber-bullying and other unwanted electronic communication, including, without limitation, communication with on-line predators;

(2) Recognize when an on-line electronic communication is dangerous or potentially dangerous; and

(3) Report a dangerous or potentially dangerous on-line electronic communication to the appropriate school personnel;

(c) The secure use of computers and other electronic devices, including, without limitation:

(1) Methods to maintain the security of personal identifying information and financial information, including, without limitation, identifying unsolicited electronic communication which is sent for the purpose of obtaining such personal and financial information for an unlawful purpose;

(2) The necessity for secure passwords or other unique identifiers;

(3) The effects of a computer contaminant;

(4) Methods to identify unsolicited commercial material; and

(5) The dangers associated with social networking Internet sites; and

(d) A designation of the level of detail of instruction as appropriate for the grade level of pupils who receive the instruction.

3. **The standards for social studies must include multicultural education, including, without limitation, information relating to contributions made by men and women from various racial and ethnic backgrounds. The Council shall consult with members of the community who represent the racial and ethnic diversity of this State in developing such standards.**

~~4.~~ 4. The Council shall establish standards of content and performance for each grade level in kindergarten and grades 1 to 8, inclusive, for English and mathematics. The Council shall establish standards of content and performance for the grade levels selected by the Council for the other courses of study prescribed in subsection 1.

~~4.~~ 5. The Council shall forward to the State Board the standards of content and performance established by the Council for each course of study. The State Board shall:

(a) Adopt the standards for each course of study, as submitted by the Council; or

(b) If the State Board objects to the standards for a course of study or a particular grade level for a course of study, return those standards to the Council with a written explanation setting forth the reason for the objection.

~~{5.}~~ **6.** If the State Board returns to the Council the standards of content and performance for a course of study or a grade level, the Council shall:

(a) Consider the objection provided by the State Board and determine whether to revise the standards based upon the objection; and

(b) Return the standards or the revised standards, as applicable, to the State Board.

↪ The State Board shall adopt the standards of content and performance or the revised standards, as applicable.

~~{6.}~~ **7.** The Council shall work in cooperation with the State Board to prescribe the examinations required by NRS 389.550.

~~{7.}~~ **8.** As used in this section:

(a) “Computer contaminant” has the meaning ascribed to it in NRS 205.4737.

(b) “Cyber-bullying” has the meaning ascribed to it in NRS 388.123.

(c) “Electronic communication” has the meaning ascribed to it in NRS 388.124.

Sec. 2. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~{Except as otherwise provided in subsection 2, a}~~ A licensed teacher who ~~{submits an}~~ is initially licensed on or after July 1, 2015, must submit with his or her first application for renewal of his or her license to teach ~~for~~ on or after January 1, 2017, shall submit with the application proof of the completion of a course in multicultural education.

2. ~~{A licensed teacher is not required to submit proof of the completion of a course in multicultural education pursuant to subsection 1 if the teacher has previously completed such a course and filed proof of the completion with the Superintendent of Public Instruction.}~~

~~3.~~ The Commission shall adopt regulations:

(a) That prescribe the required contents of a course in multicultural education which must be completed pursuant to this section;

(b) That prescribe the number of credits which must be earned by a licensed teacher in a course in multicultural education; and

(c) As otherwise necessary to carry out the requirements of this section.

Sec. 3. On or before January 1, 2016, the Commission on Professional Standards in Education shall adopt regulations to carry out the provisions of section 2 of this act.

Sec. 4. ~~{The provisions of section 2 of this act apply to each licensed teacher in this State, regardless of the date on which his or her initial license was issued.}~~ (Deleted by amendment.)

Sec. 5. This act becomes effective on July 1, 2015.

Assemblywoman Woodbury moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 239.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 362.

AN ACT relating to ~~aeronautics;~~ **aircraft;** regulating operators of unmanned aerial vehicles in this State; **revising the definition of “aircraft” to include unmanned aerial vehicles;** prohibiting the operation or use of an unmanned aerial vehicle under certain circumstances or for certain purposes; authorizing a law enforcement agency to operate an unmanned aerial vehicle at certain locations without a warrant under certain circumstances and for any other lawful purpose; prohibiting a law enforcement agency from operating an unmanned aerial vehicle without first obtaining a warrant under certain circumstances; authorizing a public agency to operate an unmanned aerial vehicle only under certain circumstances; requiring the Department of Public Safety, **to the extent that money is available,** to establish and maintain a registry of unmanned aerial vehicles that are operated by public agencies in this State; requiring the Department to report certain information to the Legislature with respect to the operation of unmanned aerial vehicles by public agencies in this State; requiring the Department to adopt regulations prescribing the public purposes for which a public agency may operate an unmanned aerial vehicle in this State; providing certain criminal and civil penalties for the unlawful operation or use of an unmanned aerial vehicle in this State; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for the regulation of aeronautics, including the operation of aircraft, in this State. (Title 44 of NRS) This bill **revises the definition of “aircraft” to include unmanned aerial vehicles for the purpose of regulating unmanned aerial vehicles. This bill** generally regulates the operators of unmanned aerial vehicles in this State ~~in a manner similar to that of traditional aircraft~~ by: (1) **establishing the right to operate an unmanned aerial vehicle in this State, with certain exceptions;** (2) **clarifying that the provisions of this bill are not to be interpreted in a manner inconsistent with federal law or apply to unmanned aerial vehicles owned or operated by the Federal Government;** (3) **clarifying the applicability of state law to torts and crimes resulting from the operation of unmanned aerial vehicles;** and (4) prohibiting a person from operating or using an unmanned aerial vehicle under certain circumstances or for certain purposes. ~~It (2) prescribing~~

Section 18 of this bill prohibits a person from weaponizing an unmanned aerial vehicle. Section 18.5 of this bill prohibits a person from operating an unmanned aerial vehicle within a certain distance from

critical facilities or a public airport except under certain circumstances in which the person obtains the consent of the owner of a critical facility or the airport authority of a public airport or authorization from the Federal Aviation Administration. Section 19 of this bill authorizes a person who owns or lawfully occupies real property to bring an action for trespass against the owner or operator of an unmanned aerial vehicle under certain circumstances and provides an exception to bringing such an action against an operator lawfully operating an unmanned aerial vehicle within the scope of a business or for the purposes of surveying land. Sections 20-22 of this bill prescribe certain restrictions on the operation and use of unmanned aerial vehicles by law enforcement agencies and public agencies. ~~It and (3) creating criminal and civil penalties for the unlawful operation and use of an unmanned aerial vehicle in this State. Section 9 of this bill clarifies that the provisions of this bill are not to be interpreted to conflict with federal law or apply to unmanned aerial vehicles or aircraft owned or operated by the Armed Forces of the United States or a reserve component thereof, the National Guard or a department or agency of the Federal Government. Section 10 of this bill establishes the right to operate an unmanned aerial vehicle in this State, with certain exceptions. Sections 11 and 12 of this bill clarify the applicability of state law to torts and crimes resulting from the operation of an unmanned aerial vehicle in this State. Section 13 of this bill holds an owner and lessee of an unmanned aerial vehicle strictly liable for certain injuries caused by the operation of the unmanned aerial vehicle. Sections 14-18 of this bill prohibit a person from operating or using an unmanned aerial vehicle under certain circumstances or for certain purposes and create criminal penalties for the unlawful operation or use of an unmanned aerial vehicle. Section 14 prohibits a person from interfering with the use of the property or landing on the property of another person. Section 15 prohibits a person from negligently operating an unmanned aerial vehicle over a heavily populated area or public gathering. Section 16 prohibits a person from operating an unmanned aerial vehicle carelessly, recklessly or while intoxicated. Section 17 prohibits a person from operating an unmanned aerial vehicle for the purpose of observing another person or capturing or disseminating photographs, images or recordings of another person without the person's consent or under circumstances in which the person has a reasonable expectation of privacy. Section 18 prohibits a person from weaponizing or operating a weaponized unmanned aerial vehicle. Section 19 of this bill authorizes a person who owns or lawfully occupies real property to bring an action for trespass against the owner or operator of an unmanned aerial vehicle under certain circumstances. Section 20 of this bill provides that, with limited exceptions, a law enforcement agency may operate an unmanned aerial vehicle in this State for any lawful purpose.~~ Section 20 specifically prohibits, with limited exceptions, a law enforcement agency from operating an unmanned aerial vehicle for the purpose of gathering evidence or other information at any location or upon any property in this State at which a person

has a reasonable expectation of privacy without first obtaining a warrant. **Section 20** authorizes a law enforcement agency to operate an unmanned aerial vehicle without a warrant: (1) if exigent circumstances exist and there is probable cause to believe that a person has committed, is committing or is about to commit a crime; (2) if a person consents in writing to the activity; (3) for the purpose of conducting search and rescue operations; (4) if the law enforcement agency believes that an imminent threat exists to the life and safety of an individual person or to the public at large, including the threat of an act of terrorism; and (5) upon the declaration of a state of emergency or disaster by the Governor. **Section 21** ~~of this bill~~ authorizes a public agency, other than a law enforcement agency, to operate an unmanned aerial vehicle for certain public purposes as prescribed by regulations adopted by the Department of Public Safety if the public agency registers the unmanned aerial vehicle with the Department. **Sections 20 and 21** provide that any photograph, image, recording or other information acquired unlawfully by a law enforcement agency or public agency, or otherwise acquired in a manner inconsistent with **section 20**, and any evidence that is derived therefrom, is inadmissible in any judicial, administrative or other adjudicatory proceeding and may not be used to establish reasonable suspicion or probable cause as the basis for investigating or prosecuting a crime or offense. **Section 22** ~~of this bill~~ requires the Department **, to the extent that money is available for this purpose,** to establish and maintain a registry of unmanned aerial vehicles that are operated by public agencies in this State and requires the Department to adopt regulations prescribing the public purposes for which an agency may operate an unmanned aerial vehicle. **Section 22** further requires the Department to prepare and submit an annual report to the Legislature outlining the activities of public agencies with respect to the operation of unmanned aerial vehicles in this State. **Section 24.4 of this bill revises provisions relating to the liability of the operator of an aircraft, including an unmanned aerial vehicle, with respect to the operation of the aircraft over heavily populated areas or public gatherings. Section 24.8 of this bill prohibits a person from operating an unmanned aerial vehicle while intoxicated or in a careless or reckless manner so as to endanger the life or property of another person.**

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

Section 1. ~~{Title 44}~~ **Chapter 493** of NRS is hereby amended by adding thereto ~~{a new chapter to consist of}~~ the provisions set forth as sections 2 to 22, inclusive, of this act.

Sec. 2. ~~{As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.}~~ **(Deleted by amendment.)**

Sec. 3. ~~{“Aircraft” has the meaning ascribed to it in subsection 1 of NRS 493.020.}~~ **(Deleted by amendment.)**

Sec. 4. ~~["Department" means the Department of Public Safety.]~~
~~(Deleted by amendment.)~~

Sec. 5. ~~["Law enforcement agency" means an agency, office, bureau, board, commission, department or division of this State or a political subdivision of this State, the primary duty of which is to enforce the law.]~~
~~(Deleted by amendment.)~~

Sec. 6. ~~["Operator" means a person who operates an unmanned aerial vehicle.]~~
~~(Deleted by amendment.)~~

Sec. 7. ~~["Public agency" means an agency, office, bureau, board, commission, department or division of this State or a political subdivision of this State other than a law enforcement agency.]~~
~~(Deleted by amendment.)~~

Sec. 8. ~~1. "Unmanned aerial vehicle" means a powered aerial vehicle that:~~

- ~~— (a) Does not carry a human operator and is operated without the possibility of direct human intervention from within or on the aerial vehicle;~~
- ~~— (b) Uses aerodynamic forces to provide vehicle lift;~~
- ~~— (c) Can fly autonomously or be piloted remotely; and~~
- ~~— (d) Can be expendable or recoverable.~~

~~2. The term does not include:~~

- ~~— (a) An aircraft; or~~
- ~~— (b) A model aircraft, as that term is defined in section 336 of the FAA Modernization and Reform Act of 2012, Public Law 112-95, as that section existed on October 1, 2015.]~~
~~(Deleted by amendment.)~~

Sec. 9. ~~[The provisions of this chapter:~~

~~— 1. Must be interpreted and construed to effectuate their general purpose and to harmonize such provisions with federal law;~~

~~— 2. Do not apply to and must not be interpreted or construed to apply to any unmanned aerial vehicle or aircraft owned or operated by the Armed Forces of the United States or a reserve component thereof, the National Guard or a department or agency of the Federal Government.]~~
~~(Deleted by amendment.)~~

Sec. 10. ~~[Except as otherwise provided in this chapter, the operation of an unmanned aerial vehicle over the lands and waters of this State is lawful.]~~
~~(Deleted by amendment.)~~

Sec. 11. ~~[All crimes, torts and other wrongs resulting from the operation of an unmanned aerial vehicle while the unmanned aerial vehicle is in flight over this State are governed by the laws of this State. The question as to whether damage occasioned by an unmanned aerial vehicle in flight over this State constitutes a tort, crime or other wrong by the owner of the unmanned aerial vehicle must be determined by the laws of this State.]~~
~~(Deleted by amendment.)~~

Sec. 12. ~~[The liability of the owner of an unmanned aerial vehicle to the owner of another unmanned aerial vehicle or the owner of an aircraft, or to the operator of another unmanned aerial vehicle or the operator of an aircraft, or to passengers in an aircraft, for damage caused by a collision on~~

~~land or in the air, must be determined by the rules of law applicable to torts on land.~~ (Deleted by amendment.)

Sec. 13. ~~{1. The owner of an unmanned aerial vehicle that is operated over the lands or waters of this State is presumed liable for injuries to persons or property on the land or water beneath caused by the:~~

~~— (a) Ascent, descent, landing or flight of the unmanned aerial vehicle; or~~
~~— (b) Dropping or falling of any object therefrom,~~

~~↪ unless the injury is caused in whole or in part by the negligence of the person injured, or of the owner or bailee of the property injured.~~

~~— 2. If an unmanned aerial vehicle is leased at the time of the injury to person or property, both the owner and the lessee are presumed to be liable and they may be sued jointly, or either or both of them may be sued separately.~~

~~— 3. The presumption of liability of the owner, or of the owner and the lessee, may be rebutted by proof that the injury was not caused by the negligence of the owner or the lessee, or of any person operating the unmanned aerial vehicle with the permission of the owner, lessee or any person maintaining or repairing the unmanned aerial vehicle with the permission of the owner or the lessee.~~

~~— 4. An operator of an unmanned aerial vehicle who is not the owner or lessee is liable only for the consequences of his or her own negligence.~~

~~— 5. An injured person, or the owner or bailee of the injured property, has a lien against the unmanned aerial vehicle causing the injury to the extent of the damage caused by the unmanned aerial vehicle or objects falling from the unmanned aerial vehicle.~~

~~— 6. A chattel mortgagee, conditional vendor or trustee under an equipment trust of any unmanned aerial vehicle who is not in possession of the unmanned aerial vehicle shall not be deemed to be an owner for the purposes of this section.~~ (Deleted by amendment.)

Sec. 14. ~~{1. A person shall not:~~

~~— (a) Operate an unmanned aerial vehicle over the lands and waters of this State;~~

~~— (1) At such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner; or~~

~~— (2) In a manner that is imminently dangerous to persons or property lawfully on the land or water beneath.~~

~~— (b) Land an unmanned aerial vehicle on the lands or waters of another person without his or her consent, except in the case of a forced landing.~~

~~— (c) Operate an unmanned aerial vehicle within 5 miles of a public airport without the consent of the airport authority or the operator of the public airport.~~

~~— 2. A person who violates any provision of subsection 1 is guilty of a misdemeanor.~~ (Deleted by amendment.)

Sec. 15. ~~{1. A person shall not, while operating an unmanned aerial vehicle over a heavily populated area or over a public gathering within this State:~~

~~— (a) Engage the unmanned aerial vehicle in trick or acrobatic flying, or in any acrobatic feat;~~

~~— (b) Except while landing or taking off, fly the unmanned aerial vehicle at such a low level as to endanger the persons on the surface beneath; or~~

~~— (c) Drop any object from the unmanned aerial vehicle.~~

~~2. A person who violates any provision of subsection 1 is guilty of a misdemeanor.} (Deleted by amendment.)~~

Sec. 16. ~~{1. A person shall not operate an unmanned aerial vehicle:~~

~~— (a) While under the influence of intoxicating liquor or a controlled substance, unless in accordance with a lawfully issued prescription; or~~

~~— (b) In a careless or reckless manner so as to endanger the life or property of another.~~

~~2. A person who violates any provision of subsection 1 is guilty of a gross misdemeanor.~~

~~3. As used in this section:~~

~~— (a) “Controlled substance” has the meaning ascribed to it in 21 U.S.C. § 802(6);~~

~~— (b) “Prescription” has the meaning ascribed to it in NRS 453.128.} (Deleted by amendment.)~~

Sec. 17. ~~{1. Except for a law enforcement agency operating an unmanned aerial vehicle in accordance with section 20 of this act, a person shall not knowingly and intentionally operate an unmanned aerial vehicle for the purpose of observing another person or capturing a photograph, image or other recording of another person:~~

~~— (a) Without the consent of the other person; or~~

~~— (b) Under circumstances in which the other person has a reasonable expectation of privacy.~~

~~2. Except as otherwise provided in this section, a person shall not distribute, disclose, display, transmit or publish a photograph, image or recording that the person knows or has reason to know was captured in violation of subsection 1.~~

~~3. A person who violates any provision of this section:~~

~~— (a) For a first offense, is guilty of a gross misdemeanor;~~

~~— (b) For a second or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.~~

~~4. If a person is charged with a violation of this section, any photograph, image or recording of the victim that is contained within:~~

~~— (a) Court records;~~

~~— (b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;~~

~~— (c) Records of criminal history, as that term is defined in NRS 179A.070; and~~

~~(d) Records in the Central Repository for Nevada Records of Criminal History;~~

~~is confidential and, except as otherwise provided in this section, must not be inspected by or released to the general public.~~

~~5. A photograph, image or recording that is confidential pursuant to subsection 4 may be inspected or released:~~

~~(a) As necessary for the purposes of investigation and prosecution of the violation by a law enforcement agency;~~

~~(b) As necessary for the purpose of allowing a person charged with a violation of this section and his or her attorney to prepare a defense; and~~

~~(c) Upon authorization by a court of competent jurisdiction as provided in subsection 6.~~

~~6. A court of competent jurisdiction may authorize the inspection or release of a photograph, image or recording that is confidential pursuant to subsection 4, upon application, if the court determines that:~~

~~(a) The person making the application has demonstrated that good cause exists for the inspection or release; and~~

~~(b) Reasonable notice of the application and an opportunity to be heard have been given to the victim.] (Deleted by amendment.)~~

Sec. 18. 1. A person shall not weaponize an unmanned aerial vehicle or operate a weaponized unmanned aerial vehicle. A person who violates this section is guilty of a category ~~B~~ D felony and shall be punished as provided in NRS 193.130.

2. A person who weaponizes an unmanned aerial vehicle in violation of subsection 1 and who discharges the weapon is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Sec. 18.5. 1. A person shall not operate an unmanned aerial vehicle within:

(a) A horizontal distance of 500 feet or a vertical distance of 250 feet from a critical facility without the written consent of the owner of the critical facility.

(b) Except as otherwise provided in subsection 2, 5 miles of a public airport.

2. A person may operate an unmanned aerial vehicle within 5 miles of a public airport only if the person obtains the consent of the airport authority or the operator of the public airport, or if the person has otherwise obtained a waiver, exemption or other authorization for such operation pursuant to any rule or regulation of the Federal Aviation Administration. A person who is authorized to operate an unmanned aerial vehicle within 5 miles of an airport pursuant to this subsection shall, at all times during such operation, maintain on his or her person documentation of any waiver, exemption, authorization or consent permitting such operation.

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

4. As used in this section, “public airport” means any publicly owned airport that boards not fewer than 2,500 passengers per calendar year and that has a scheduled passenger service.

Sec. 19. 1. Except as otherwise provided in subsection 2, a person who owns or lawfully occupies real property in this State may bring an action for trespass against the owner or operator of an unmanned aerial vehicle that is flown at a height of less than ~~400~~ 250 feet over the property if:

(a) The owner or operator of the unmanned aerial vehicle has flown the unmanned aerial vehicle over the property at a height of less than ~~400~~ 250 feet on at least one previous occasion; and

(b) The person who owns or occupies the real property notified the owner or operator of the unmanned aerial vehicle that the person did not authorize the flight of the unmanned aerial vehicle over the property at a height of less than ~~400~~ 250 feet. For the purposes of this paragraph, a person may place the owner or operator of an unmanned aerial vehicle on notice in the manner prescribed in subsection 2 of NRS 207.200.

2. A person may not bring an action pursuant to subsection 1 if:

(a) The unmanned aerial vehicle is lawfully in the flight path for landing at an airport, airfield or runway.

(b) The unmanned aerial vehicle is in the process of taking off or landing.

(c) The unmanned aerial vehicle was under the lawful operation of a law enforcement agency in accordance with section 20 of this act.

(d) The unmanned aerial vehicle was under the lawful operation of a business licensed in this State or a land surveyor if:

(1) The operator is licensed or otherwise approved to operate the unmanned aerial vehicle by the Federal Aviation Administration;

(2) The unmanned aerial vehicle is being operated within the scope of the lawful activities of the business or surveyor; and

(3) The operation of the unmanned aerial vehicle does not unreasonably interfere with the existing use of the real property.

3. A plaintiff who prevails in an action for trespass brought pursuant to subsection 1 is entitled to recover treble damages for any injury to the person or the real property as the result of the trespass. In addition to the recovery of damages pursuant to this subsection, a plaintiff may be awarded reasonable attorney’s fees and costs and injunctive relief.

Sec. 20. 1. Except as otherwise provided in this section, nothing in this section shall be deemed to otherwise prohibit the operation of an unmanned aerial vehicle by a law enforcement agency for any lawful purpose in this State.

2. Except as otherwise provided in subsection 3, a law enforcement agency shall not operate an unmanned aerial vehicle for the purpose of gathering evidence or other information within the curtilage of a residence or at any other location or upon any property in this State at which a person has a reasonable expectation of privacy, unless the law enforcement agency first obtains a warrant from a court of competent jurisdiction authorizing

the use of the unmanned aerial vehicle for that purpose. A warrant authorizing the use of an unmanned aerial vehicle must specify the period for which operation of the unmanned aerial vehicle is authorized. A warrant must not authorize the use of an unmanned aerial vehicle for a period of more than ~~30~~ 10 days. Upon motion and ~~for good~~ a showing of probable cause, ~~shown~~ a court may renew a warrant after the expiration of the period for which the warrant was initially issued.

3. A law enforcement agency may operate an unmanned aerial vehicle without obtaining a warrant issued pursuant to subsection 2:

(a) If the law enforcement agency has probable cause to believe that a person has committed a crime, is committing a crime or is about to commit a crime, and exigent circumstances exist that make it unreasonable for the law enforcement agency to obtain a warrant authorizing the use of the unmanned aerial vehicle.

(b) If a person provides written consent to the law enforcement agency authorizing the law enforcement agency to acquire information about the person or the real or personal property of the person. The written consent must specify the information to be gathered and the time, place and manner in which the information is to be gathered by the law enforcement agency.

(c) For the purpose of conducting search and rescue operations for persons and property in distress.

(d) Under circumstances in which the law enforcement agency believes that an imminent threat exists to the life and safety of an individual person or to the public at large, including, without limitation, the threat of an act of terrorism. A law enforcement agency that operates an unmanned aerial vehicle pursuant to this paragraph shall document the factual basis for its belief that such an imminent threat exists and shall, not later than ~~48 hours~~ 2 business days after initiating operation, file a sworn statement with a court of competent jurisdiction describing the nature of the imminent threat and the need for the operation of the unmanned aerial vehicle.

(e) Upon the declaration of a state of emergency or disaster by the Governor. A law enforcement agency that operates an unmanned aerial vehicle pursuant to this paragraph shall not use the unmanned aerial vehicle outside of the geographic area specified in the declaration or for any purpose other than the preservation of public safety, the protection of property, or the assessment and evaluation of environmental or weather-related damage, erosion or contamination.

4. Any photograph, image, recording or other information that is acquired by a law enforcement agency through the operation of an unmanned aerial vehicle in violation of this section, or that is acquired from any other person or governmental entity, including, without limitation, a public agency and any department or agency of the Federal Government, that obtained the photograph, image, recording or other information in a manner inconsistent with the requirements of this section, and any evidence that is derived therefrom:

(a) Is not admissible in and must not be disclosed in a judicial, administrative or other adjudicatory proceeding; and

(b) May not be used to establish reasonable suspicion or probable cause as the basis for investigating or prosecuting a crime or offense.

Sec. 21. 1. A public agency:

(a) May operate an unmanned aerial vehicle only if:

(1) Before the operation of the unmanned aerial vehicle, the public agency registers the unmanned aerial vehicle with the Department pursuant to subsection 2 of section 22 of this act.

(2) The public agency operates the unmanned aerial vehicle in accordance with the regulations adopted by the Department pursuant to subsection 4 of section 22 of this act.

(b) Must not operate an unmanned aerial vehicle for the purposes of assisting a law enforcement agency with law enforcement or conducting a criminal prosecution.

2. Any photograph, image, recording or other information that is acquired by a public agency through the operation of an unmanned aerial vehicle in violation of this section, and any evidence that is derived therefrom:

(a) Is not admissible in, and must not be disclosed in, a judicial, administrative or other adjudicatory proceeding; and

(b) May not be used to establish reasonable suspicion or probable cause as the basis for investigating or prosecuting a crime or offense.

Sec. 22. 1. The Department shall, to the extent that money is available for this purpose, establish and maintain a registry of unmanned aerial vehicles that are operated by public agencies in this State. The Department shall include on its Internet website the information that is maintained in the registry.

2. A public agency shall, for each unmanned aerial vehicle the public agency intends to operate, submit to the Department, on a form provided by the Department, for inclusion in the registry:

(a) The name of the public agency;

(b) The name and contact information of each operator of the unmanned aerial vehicle;

(c) Sufficient information to identify the unmanned aerial vehicle; and

(d) A statement describing the ~~specific~~ use of the unmanned aerial vehicle by the public agency.

3. The Department shall, on or before February 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report outlining the activities of public agencies with respect to the operation of unmanned aerial vehicles in this State.

4. The Department shall adopt regulations prescribing the public purposes for which a public agency may operate an unmanned aerial vehicle

that is registered with the Department pursuant to this section ~~17~~, including, without limitation:

- (a) The provision of fire services.*
- (b) The provision of emergency medical services.*
- (c) The protection of a critical facility that is public property.*
- (d) Search and rescue operations conducted for persons and property in distress.*

Sec. 22.5. NRS 493.010 is hereby amended to read as follows:

493.010 NRS 493.010 to 493.120, inclusive, and sections 18 to 22, inclusive, of this act may be cited as the Uniform State Law for Aeronautics.

Sec. 23. NRS 493.020 is hereby amended to read as follows:

493.020 As used in NRS 493.010 to 493.120, inclusive, and sections 18 to 22, inclusive, of this act, unless the context otherwise requires:

1. "Aircraft" includes a balloon, airplane, hydroplane, unmanned aerial vehicle and any other vehicle used for navigation through the air. A hydroplane, while at rest on water and while being operated on or immediately above water, is governed by the rules regarding water navigation. A hydroplane while being operated through the air other than immediately above water, is an aircraft. ~~[The term does not include an unmanned aerial vehicle.]~~

2. "Critical facility" means a petroleum refinery, a petroleum or chemical production, transportation, storage or processing facility, a chemical manufacturing facility, a pipeline and any appurtenance thereto, a water treatment facility, a mine as that term is defined in subsection 5 of NRS 512.006, a power generating station, plant or substation and any appurtenances thereto, any transmission line that is owned in whole or in part by an electric utility as that term is defined in subsection 5 of NRS 704.187 and any prison, facility or institution under the control of the Department of Corrections.

3. "Department" means the Department of Public Safety.

4. "Law enforcement agency" means an agency, office, bureau, board, commission, department or division of this State or a political subdivision of this State, the primary duty of which is to enforce the law.

5. "Operator" includes aviator, pilot, balloonist and any other person having any part in the operation of aircraft while in flight.

~~6.~~ 6. "Passenger" includes any person riding in an aircraft, but having no part in its operation.

~~[4. "Unmanned aerial vehicle" has the meaning ascribed to it in section 8 of this act.]~~

7. "Public agency" means an agency, office, bureau, board, commission, department or division of this State or a political subdivision of this State other than a law enforcement agency.

8. "Unmanned aerial vehicle" means a powered aircraft of any size without a human operator aboard the vehicle and that is operated remotely or autonomously.

Sec. 24. ~~[NRS 239.010 is hereby amended to read as follows:~~

~~239.010 1. Except as otherwise provided in this section and
NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620,
62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113,
81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580,
87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251,
90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265,
119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690,
125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015,
176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772,
200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419,
209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110,
217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105,
239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230,
239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335,
250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105,
281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,
289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135,
293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,
338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085,
353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610,
365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655,
387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029,
392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447,
394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350,
425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290,
432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840,
439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720,
453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407,
463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363,
483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160,
584.582, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090,
603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315,
616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265,
624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336,
630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524,
634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315,
637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220,
640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090,
641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180,~~

~~645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, and section 17 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.~~

~~2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.~~

~~3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.~~

~~4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:~~

~~(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.~~

~~(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.} (Deleted by amendment.)~~

Sec. 24.2. NRS 493.050 is hereby amended to read as follows:

493.050 1. Flight ~~in~~ of an aircraft over the lands and waters of this state is lawful:

(a) Unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner.

(b) Unless so conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath.

(c) Unless specifically prohibited by the provisions of NRS 493.010 to 493.120, inclusive, and sections 18 to 22, inclusive, of this act, or any regulations adopted pursuant thereto.

2. The landing of an aircraft on the lands or waters of another, without his or her consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, the owner, lessee or operator of the aircraft is liable as provided in NRS 493.060.

Sec. 24.4. NRS 493.100 is hereby amended to read as follows:

493.100 **1.** Any operator or passenger, while **an aircraft is** in flight over a heavily populated area or over a public gathering within this state, who:

~~{1. Engages}~~

(a) Except as otherwise provided in subsection 2, engages in trick or acrobatic flying, or in any acrobatic feat;

~~{2.}~~ **(b)** Except while in landing or taking off, flies at such a low level as to endanger the persons on the surface beneath; or

~~{3.}~~ **(c)** Drops any object ~~{except loose water or loose sand ballast,}~~ **with reckless disregard for the safety of other persons and willful indifference to injuries that could reasonably result from dropping the object,**

↪ is guilty of a misdemeanor.

2. The provisions of paragraph (a) of subsection 1 do not apply to the operator of an unmanned aerial vehicle in a park unless the operator is operating the unmanned aerial vehicle with reckless disregard for the safety of other persons and with willful indifference to injuries that could reasonably result from such operation.

Sec. 24.6. NRS 493.120 is hereby amended to read as follows:

493.120 NRS 493.010 to 493.120, inclusive, **and sections 18 to 22, inclusive, of this act** shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them, and to harmonize, as far as possible, with federal laws and regulations on the subject of aeronautics. They shall not be interpreted or construed to apply in any manner to aircraft owned and operated by the Federal Government.

Sec. 24.8. NRS 493.130 is hereby amended to read as follows:

493.130 **1.** Any person operating an aircraft in the air, or on the ground or water:

~~{1.}~~ **(a)** While under the influence of intoxicating liquor or a controlled substance, unless in accordance with a lawfully issued prescription; or

~~{2.}~~ **(b)** In a careless or reckless manner so as to endanger the life or property of another,

↪ is guilty of a gross misdemeanor.

2. As used in this section:

(a) "Aircraft" includes an unmanned aerial vehicle as that term is defined in subsection 8 of NRS 493.020.

(b) "Controlled substance" has the meaning ascribed to it in 21 U.S.C. § 802(6).

(c) "Prescription" has the meaning ascribed to it in NRS 453.128.

Sec. 25. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 26. This act becomes effective:

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

2. On October 1, 2015, for all other purposes.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 240.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 546.

AN ACT relating to common-interest communities; revising provisions ~~governing the enforcement and priority of a unit owners' association's lien on a unit; repealing provisions authorizing~~ **relating to** the nonjudicial foreclosure of ~~an~~ **a unit-owners'** association's lien; **authorizing a right of redemption after the foreclosure of an association's lien by sale under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a unit-owners' association has a lien on a unit for certain amounts due to the association. Generally, the association's lien is prior to all other liens on a unit, except: (1) liens recorded before the recordation of the declaration; (2) the first security interest on the unit; and (3) liens for real estate taxes and other governmental assessments or charges against the unit. However, the association's lien is prior to the first security interest on the unit to the extent of certain maintenance and abatement charges and a certain amount of assessments for common expenses. The portion of the association's lien that is prior to the first security interest is commonly referred to as the "super-priority lien." (NRS 116.3116) Existing law authorizes a unit-owners' association to foreclose its lien through a nonjudicial foreclosure process. (NRS 116.31162-116.31168)

~~[This bill repeals provisions authorizing a unit owners' association to foreclose its lien through a nonjudicial foreclosure process and removes provisions granting the association's lien priority over other liens and encumbrances. Section 4 of this bill provides that the association may enforce its lien by recording a notice of lien and commencing a judicial action to~~

~~enforce its lien. Under section 4, the association's lien on a unit has no priority over other liens and encumbrances on the unit that were recorded before the association recorded its notice of lien.~~ **Section 4.7 of this bill provides that after a sale of a unit to enforce the association's lien, the unit's owner or a holder of a security interest on the unit may redeem the unit by paying certain amounts to the purchaser within 60 days after the sale. If the unit's owner redeems the unit, the unit's owner is restored to his or her ownership of the unit. If a holder of a security interest on the unit redeems the unit, that holder is entitled to a deed without warranty which conveys to the holder all title of the unit's owner to the unit. Section 4.7 further provides that upon expiration of the redemption period, any failure to comply with the requirements of existing law for the foreclosure of the association's lien does not affect the rights of a bona fide purchaser or encumbrancer for value. Section 8 of this bill provides that the amendatory provisions of ~~section 4~~ **this bill** apply only to ~~the enforcement of the~~ **a sale to enforce an** association's lien ~~unless the association has foreclosed its lien by sale~~ **that occurs** on or ~~before June 30,~~ **after July 1,** 2015.**

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

Section 1. ~~NRS 116.12075 is hereby amended to read as follows:~~

~~116.12075 1. The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:~~

- ~~(a) This entire chapter applies to the condominium;~~
- ~~(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and 116.3116 [to 116.31168, inclusive,] apply to the condominium; or~~
- ~~(c) Only the provisions of NRS 116.3116 [to 116.31168, inclusive,] apply to the condominium.~~

~~2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:~~

- ~~(a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and~~
- ~~(b) Notwithstanding NRS 116.1104 and subsection 3 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.] **(Deleted by amendment.)**~~

Sec. 2. ~~NRS 116.310312 is hereby amended to read as follows:~~

~~116.310312 1. A person who holds a security interest in a unit must provide the association with the person's contact information as soon as reasonably practicable, but not later than 30 days after the person~~

~~— (a) Files an action for recovery of a debt or enforcement of any right secured by the unit pursuant to NRS 40.430; or~~

~~— (b) Records or has recorded on his or her behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080;~~

~~— 2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:~~

~~— (a) Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal;~~

~~— (b) Remove or abate a public nuisance on the exterior of the unit which:~~

~~— (1) Is visible from any common area of the community or public streets;~~

~~— (2) Threatens the health or safety of the residents of the common-interest community;~~

~~— (3) Results in blighting or deterioration of the unit or surrounding area; and~~

~~— (4) Adversely affects the use and enjoyment of nearby units.~~

~~— 3. If a unit is vacant and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance as described in subsection 2 if the unit's owner refuses or fails to do so.~~

~~— 4. The association may order that the costs of any maintenance or abatement conducted pursuant to subsection 2 or 3, including, without limitation, reasonable inspection fees, notification and collection costs and interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. [The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.]~~

~~— 5. A lien described in subsection 4 bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges, including all interest due, are paid.~~

~~— 6. [Except as otherwise provided in this subsection, a lien described in subsection 4 is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the federal regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter~~

~~period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6 months immediately preceding the institution of an action to enforce the lien.~~

~~— 7.] A person who purchases or acquires a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS 107.080 is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. Such a unit may only be removed from a common interest community in accordance with the governing documents pursuant to this chapter.~~

~~— [8.] 7. Notwithstanding any other provision of law, an association, its directors or members of the executive board, employees, agents or community manager who enter the grounds of a unit pursuant to this section are not liable for trespass.~~

~~— [9.] 8. As used in this section:~~

~~— (a) "Exterior of the unit" includes, without limitation, all landscaping outside of a unit and the exterior of all property exclusively owned by the unit owner.~~

~~— (b) "Vacant" means a unit:~~

~~— (1) Which reasonably appears to be unoccupied;~~

~~— (2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents the association; and~~

~~— (3) On which the owner has failed to pay assessments for more than 60 days.] (Deleted by amendment.)~~

~~Sec. 3. [NRS 116.31068 is hereby amended to read as follows:~~

~~116.31068 1. Except as otherwise provided in subsection 3, an association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit's owner designates. Except as otherwise provided in subsection 3, if a unit's owner has not designated a mailing or electronic mail address to which a notice must be delivered, the association may deliver notices by:~~

~~— (a) Hand delivery to each unit's owner;~~

~~— (b) Hand delivery, United States mail, postage paid, or commercially reasonable delivery service to the mailing address of each unit;~~

~~— (c) Electronic means, if the unit's owner has given the association an electronic mail address; or~~

~~— (d) Any other method reasonably calculated to provide notice to the unit's owner.~~

~~2. The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.~~

~~3. The provisions of this section do not apply:~~

~~— (a) To a notice required to be given pursuant to NRS 116.3116 ; [to 116.31168, inclusive;] or~~

~~(b) If any other provision of this chapter specifies the manner in which a notice must be given by an association.~~ **(Deleted by amendment.)**

Sec. 4. [NRS 116.3116 is hereby amended to read as follows:

~~116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.~~

~~2. A lien under this section is prior to all other liens and encumbrances on a unit except:~~

~~(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;~~

~~(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and~~

~~(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.~~

~~3. The lien is also prior to all security interests described in paragraph (b) to the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.~~

~~3. The holder of the security interest described in paragraph (b) of subsection 2 or the holder's authorized agent may establish an escrow account, loan trust account or other impound account for advance contributions for the~~

~~payment of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 if the unit's owner and the holder of that security interest consent to the establishment of such an account. If such an account is established, payments from the account for assessments for common expenses must be made in accordance with the same due dates as apply to payments of such assessments by a unit's owner.~~

~~4. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.~~

~~5. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.~~

~~6.] To perfect its lien, the association must record a notice of lien in the office of the county recorder of the county in which the unit or some part thereof is located. An association may not record a notice of lien unless the amounts listed in subsection 1 are more than 90 days past due.~~

~~3. A notice of lien recorded pursuant to subsection 2 must be verified by the oath of the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association, and must contain:~~

~~(a) A statement of the amount of the association's lien;~~

~~(b) The name and last known address of the record owner of the unit; and~~

~~(c) A description of the unit against which the lien is imposed.~~

~~4. The association shall serve a copy of the notice of lien upon the unit's owner not later than 30 days after recording the notice of lien pursuant to subsection 2 by:~~

~~(a) Personally delivering a copy of the notice of lien to the unit's owner;~~
~~or~~

~~(b) Mailing a copy of the notice of lien to the unit's owner or his or her successor in interest by certified mail, return receipt requested, at his or her address, if known, and at the address of the unit.~~

~~5. Not earlier than 90 days after the date on which a copy of the notice of lien is served on the unit's owner pursuant to subsection 4, a notice of lien under this section may be enforced by an action in any court of competent jurisdiction that is located within the county where the unit subject to the notice of lien or any portion thereof is located, on setting out in the complaint the particulars of the demand, with a description of the unit to be charged with the lien. At the time of filing the complaint and issuing the summons, the association or other person authorized by the association to enforce the lien shall file a notice of pendency of the action in the manner provided in NRS 14.010.~~

~~6. In an action to enforce a lien under this section, the court shall:~~

~~(a) Enter judgment according to the right of the parties.~~

~~(b) Upon ascertaining the amount of the association's lien under this section, cause the property to be sold in satisfaction of the lien and costs of~~

~~sale. An association in whose favor judgment may be rendered may cause the unit to be sold within the time and in the manner provided for sales on execution, issued out of any district court, for the sale of real property.~~

~~7. If the proceeds of a sale pursuant to subsection 6, after payment of the costs of sale, are not sufficient to satisfy the association's lien, the association is entitled to a personal judgment for the amount remaining due against the unit's owner. If the proceeds of the sale amount to more than the association's lien and the cost of sale, the remainder must be paid over to the unit's owner.~~

~~8. As soon as practicable, but not later than 10 days after a notice of lien upon a unit is fully satisfied or discharged, the association shall cause to be recorded a discharge or release of the notice of lien. If the association fails to comply with this section, the association is liable in a civil action to the unit's owner or his or her successor in interest for any actual damages caused by the association's failure to comply with the provisions of this subsection or \$100, whichever is greater, and for reasonable attorney's fees and the costs of bringing the action.~~

~~9. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are [instituted] commenced in a court of competent jurisdiction within [3 years after the full amount of the assessments becomes due.~~

~~7.] 1 year after the date on which the notice of lien is recorded pursuant to subsection 3.~~

~~10. This section does not prohibit [actions to] an association from bringing or maintaining a civil action to recover sums for which subsection 4 creates a lien. [or prohibit an association from taking a deed in lieu of foreclosure.~~

~~8. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.~~

~~9.] 11. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate, [or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive,] the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.~~

~~[10.] 12. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:~~

~~(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be [foreclosed under NRS 116.31162 to 116.31168, inclusive.] enforced pursuant to this section.~~

~~(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien [:~~

~~(1) May] may be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive, or~~

~~(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31169, inclusive.~~

~~11.] 13. In an action by an association to collect assessments or to [foreclose] enforce a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.] (Deleted by amendment.)~~

Sec. 4.3. NRS 116.31164 is hereby amended to read as follows:

116.31164 1. The sale must be conducted in the county in which the common-interest community or part of it is situated, and may be conducted by the association, its agent or attorney, or a title insurance company or escrow agent licensed to do business in this State, except that the sale may be made at the office of the association if the notice of the sale so provided, whether the unit is located within the same county as the office of the association or not. The association or other person conducting the sale may from time to time postpone the sale by such advertisement and notice as it considers reasonable or, without further advertisement or notice, by proclamation made to the persons assembled at the time and place previously set and advertised for the sale.

2. On the day of sale originally advertised or to which the sale is postponed, at the time and place specified in the notice or postponement, the person conducting the sale may sell the unit at public auction to the highest cash bidder. Unless otherwise provided in the declaration or by agreement, the association may purchase the unit and hold, lease, mortgage or convey it. The association may purchase by a credit bid up to the amount of the unpaid assessments and any permitted costs, fees and expenses incident to the enforcement of its lien.

3. After the sale, the person conducting the sale shall:

~~(a) [Make, execute and, after payment is made, deliver to the purchaser, or his or her successor or assign, a deed without warranty which conveys to the grantee all title of the unit's owner to the unit;~~

~~(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the purchaser, or his or her successor or assign; and~~

~~(c)] **Comply with the provisions of subsection 2 of NRS 116.31166; and**~~

(b) Apply the proceeds of the sale for the following purposes in the following order:

(1) The reasonable expenses of sale;

(2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the unit for sale, including payment of taxes and

other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;

(3) Satisfaction of the association's lien;

(4) Satisfaction in the order of priority of any subordinate claim of record; and

(5) Remittance of any excess to the unit's owner.

Sec. 4.7. NRS 116.31166 is hereby amended to read as follows:

116.31166 1. Every sale of a unit pursuant to NRS 116.31162 to 116.31168, inclusive, vests in the purchaser the title of the unit's owner subject to the right of redemption provided by this section.

2. After the sale conducted pursuant to NRS 116.31164, the person conducting the sale shall:

(a) Give to the purchaser a certificate of the sale containing:

(1) A particular description of the unit sold;

(2) The price bid for the unit;

(3) The whole price paid; and

(4) A statement that the unit is subject to redemption; and

(b) Record a copy of the certificate in the office of the county recorder of the county in which the unit or part of it is located.

3. A unit sold pursuant to NRS 116.31162 to 116.31168, inclusive, may be redeemed by the unit's owner whose interest in the unit was extinguished by the sale, or his or her successor in interest, or any holder of a recorded security interest that is subordinate to the lien on which the unit was sold, or that holder's successor in interest. The unit's owner whose interest in the unit was extinguished, the holder of the recorded security interest on the unit or a successor in interest of those persons may redeem the property at any time within 60 days after the sale by paying:

(a) The purchaser the amount of his or her purchase price, with interest at the rate of 1 percent per month thereon in addition, to the time of redemption, plus:

(1) The amount of any assessment paid to the association by the purchaser before the redemption;

(2) The amount of any assessment, taxes or payments toward liens which were created before the purchase and which the purchaser may have paid thereon after the purchase, and interest on such amount;

(3) If the purchaser is also a creditor having a prior lien to that of the redemptioner, other than the association's lien under which the purchase was made, the amount of such lien, and interest on such amount; and

(4) Any reasonable amount expended by the purchaser which is reasonably necessary to maintain and repair the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal.

(b) The association the amount of any assessments not paid to the association after the purchase and before the redemption.

(c) If the redemptioner is the holder of a recorded security interest on the unit or the holder's successor in interest, the amount of any lien before his or her own lien, with interest, but the association's lien under which the unit was sold is not required to be so paid as a lien.

4. Notice of redemption must be served by the person redeeming the unit on the person who conducted the sale and on the person from whom the unit is redeemed, together with:

(a) If the person redeeming the unit is the unit's owner whose interest in the unit was extinguished by the sale or his or her successor in interest, a certified copy of the deed to the unit and, if the person redeeming the unit is the successor of that unit's owner, a copy of any document necessary to establish that the person is the successor of the unit's owner.

(b) If the person redeeming the unit is the holder of a recorded security interest on the unit or the holder's successor in interest:

(1) An original or certified copy of the deed of trust securing the unit or a certified copy of any other recorded security interest of the holder.

(2) A copy of any assignment necessary to establish the claim of the person redeeming the unit, verified by the affidavit of that person, or that person's agent, or of a subscribing witness thereto.

(3) An affidavit by the person redeeming the unit, or that person's agent, showing the amount then actually due on the lien.

5. If the unit's owner whose interest in the unit was extinguished by the sale redeems the property as provided in this section:

(a) The effect of the sale is terminated, and the unit's owner is restored to his or her interest in the unit, subject to any security interest on the unit that existed at the time of sale; and

(b) The person to whom the redemption amount was paid must execute and deliver to the unit's owner a certificate of redemption, acknowledged or approved before a person authorized to take acknowledgments of conveyances of real property, and the certificate must be recorded in the office of the recorder of the county in which the unit or part of the unit is situated.

6. If the holder of a recorded security interest redeems the unit as provided in this section and the period for a redemption set forth in subsection 3 has expired, the person conducting the sale shall:

(a) Make, execute and, if the amount required to redeem the unit is paid to the person from whom the unit is redeemed, deliver to the person who redeemed the unit or his or her successor or assign, a deed without warranty which conveys to the person who redeemed the unit all title of the unit's owner to the unit; and

(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the person who redeemed the unit, or his or her successor or assign.

7. If no redemption is made within 60 days after the date of sale, the person conducting the sale shall:

(a) Make, execute and, if payment is made, deliver to the purchaser, or his or her successor or assign, a deed without warranty which conveys to the purchaser all title of the unit's owner to the unit; and

(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the purchaser, or his or her successor or assign.

8. The recitals in a deed made pursuant to ~~NRS 116.31164~~ subsection 6 or 7 of:

(a) Default, the mailing of the notice of delinquent assessment, and the mailing and recording of the notice of default and election to sell;

(b) The elapsing of the ~~90 days;~~ 90-day period set forth in paragraph (c) of subsection 1 of NRS 116.31162; and

(c) The giving of notice of sale,
 ➤ are conclusive proof of the matters recited.

~~{2. Such a}~~

9. A deed containing ~~those~~ the recitals set forth in subsection 8 is conclusive against the unit's former owner, his or her heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

~~{3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or right of redemption.}~~

10. Upon the expiration of the redemption period set forth in subsection 3, any failure to comply with the provisions of NRS 116.3116 to 116.31168, inclusive, does not affect the rights of a bona fide purchaser or bona fide encumbrancer for value.

Sec. 5. ~~NRS 116.4105 is hereby amended to read as follows:~~
~~116.4105 If the declaration provides that ownership or occupancy of any units, is or may be in time shares, the public offering statement shall disclose, in addition to the information required by NRS 116.4103 and 116.41035:~~

- ~~1. The number and identity of units in which time shares may be created;~~
- ~~2. The total number of time shares that may be created;~~
- ~~3. The minimum duration of any time shares that may be created; and~~
- ~~4. The extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in NRS 116.3116. ~~[and 116.31162.]~~ (Deleted by amendment.)~~

Sec. 6. ~~NRS 278A.170 is hereby amended to read as follows:~~
~~278A.170 The procedures for enforcing payment of an assessment for the maintenance of common open space provided in NRS 116.3116 ~~[to 116.31168, inclusive,]~~ are also available to any organization for the ownership and maintenance of common open space established other than under this chapter or chapter 116 of NRS and entitled to receive payments from owners of property for such maintenance under a recorded declaration of restrictions,~~

~~deed restriction, restrictive covenant or equitable servitude which provides that any reasonable and ratable assessment thereon for the organization's costs of maintaining the common open space constitutes a lien or encumbrance upon the property.~~ **(Deleted by amendment.)**

Sec. 7. ~~[NRS 649.020 is hereby amended to read as follows:~~

~~649.020 1. "Collection agency" means all persons engaging, directly or indirectly, and as a primary or a secondary object, business or pursuit, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to another.~~

~~2. "Collection agency" does not include any of the following unless they are conducting collection agencies:~~

~~(a) Individuals regularly employed on a regular wage or salary, in the capacity of credit men or in other similar capacity upon the staff of employees of any person not engaged in the business of a collection agency or making or attempting to make collections as an incident to the usual practices of their primary business or profession.~~

~~(b) Banks.~~

~~(c) Nonprofit cooperative associations.~~

~~(d) Unit owners' associations and the board members, officers, employees and units' owners of those associations when acting under the authority of and in accordance with chapter 116 or 116B of NRS and the governing documents of the association, except for those community managers included within the term "collection agency" pursuant to subsection 3.~~

~~(e) Abstract companies doing an escrow business.~~

~~(f) Duly licensed real estate brokers, except for those real estate brokers who are community managers included within the term "collection agency" pursuant to subsection 3.~~

~~(g) Attorneys and counselors at law licensed to practice in this State, so long as they are retained by their clients to collect or to solicit or obtain payment of such clients' claims in the usual course of the practice of their profession.~~

~~3. "Collection agency":~~

~~(a) Includes a community manager while engaged in the management of a common interest community or the management of an association of a condominium hotel if the community manager, or any employee, agent or affiliate of the community manager, performs or offers to perform any act associated with the [foreclosure] **enforcement** of a lien pursuant to NRS [116.31162 to 116.31163, inclusive,] **116.3116** or **the foreclosure of a lien pursuant to NRS 116B.635 to 116B.660, inclusive;** and~~

~~(b) Does not include any other community manager while engaged in the management of a common interest community or the management of an association of a condominium hotel.~~

~~4. As used in this section:~~

~~(a) "Community manager" has the meaning ascribed to it in NRS 116.023 or 116B.050.~~

~~(b) "Unit owners' association" has the meaning ascribed to it in NRS 116.011 or 116B.020.] (Deleted by amendment.)~~

Sec. 8. The **amendatory** provisions of NRS ~~[116.3116,]~~ **116.31164 and 116.31166**, as amended by ~~[section 4]~~ **sections 4.3 and 4.7** of this act, apply ~~[to the enforcement of a lien of a unit owner's association pursuant to that section unless the association has foreclosed its lien by]~~ **only to a sale of a unit pursuant to NRS 116.3116 to 116.31168, inclusive, as amended by sections 4.3 and 4.7 of this act, that occurs** on or ~~[before June 30,]~~ **after July 1, 2015.**

Sec. 9. ~~[NRS 116.31162, 116.31163, 116.311635, 116.31164, 116.31166 and 116.31168 are hereby repealed.] (Deleted by amendment.)~~

Sec. 10. This act becomes effective on July 1, 2015.

†

~~HEADLINES OF REPEALED SECTIONS~~

~~116.31162 Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.~~

~~116.31163 Foreclosure of liens: Mailing of notice of default and election to sell to certain interested persons.~~

~~116.311635 Foreclosure of liens: Providing notice of time and place of sale; service of notice of sale; contents of notice of sale; proof of service.~~

~~116.31164 Foreclosure of liens: Procedure for conducting sale; purchase of unit by association; execution and delivery of deed; use of proceeds of sale.~~

~~116.31166 Foreclosure of liens: Effect of recitals in deed; purchaser not responsible for proper application of purchase money; title vested in purchaser without equity or right of redemption.~~

~~116.31168 Foreclosure of liens: Requests by interested persons for notice of default and election to sell; right of association to waive default and withdraw notice or proceeding to foreclose.]~~

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 242.

Bill read second time.

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

Amendment No. 504.

SUMMARY—~~[Prescribes requirements concerning the care of patients in facilities for skilled nursing.]~~ **Directs the Legislative Commission to appoint a subcommittee to conduct a study of postacute care in Nevada.**
(BDR ~~[40-417]~~ **S-417**)

AN ACT relating to public health; ~~establishing certain requirements concerning the care of patients in a facility for skilled nursing;~~ **requiring the Legislative Commission to appoint a subcommittee to conduct a study relating to postacute care in Nevada;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law establishes certain requirements that apply to facilities for skilled nursing and provides for the regulation of such facilities by the State Board of Health and the Division of Public and Behavioral Health of the Department of Health and Human Services. (NRS 449.030-449.2428) This bill requires a facility for skilled nursing to provide to each patient a certain amount of direct care that is provided by a registered nurse or a certified nursing assistant. Additionally, this bill requires a facility for skilled nursing to respond to each request for assistance by a patient within 20 minutes after the request is made. Finally, this bill authorizes the Board to establish a monitoring system to ensure that facilities for skilled nursing comply with these requirements. The Division is authorized to enforce these requirements.~~
This bill requires the Legislative Commission to appoint a subcommittee to conduct a study relating to postacute care in Nevada, including alternatives to institutionalization, cost savings of home- and community-based waiver programs, the impact of postacute care services on the quality of life of a person receiving such services and a review of the state and national quality measures and funding methodologies for postacute care.

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

Section 1. ~~[Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A facility for skilled nursing shall ensure that each patient in the facility receives not less than 4 hours and 6 minutes per day of direct care from a certified nursing assistant or a registered nurse, except that at least 1 hour and 18 minutes of which must be provided by a registered nurse.~~

~~2. A facility for skilled nursing shall ensure that an appropriate employee responds to each request for assistance made by a patient within 20 minutes after the request is made.~~

~~3. The Board shall establish a monitoring system to ensure that facilities for skilled nursing comply with the provisions of this section, which must include, without limitation, procedures by which any person may report a violation of subsection 2.~~

~~4. The Board may adopt any regulations that are necessary or appropriate to carry out the provisions of this section.~~

~~5. As used in this section, "Certified nursing assistant" means a person who has been certified by the State Board of Nursing pursuant to~~

~~NRS 632.2852 to practice as a nursing assistant in this State.~~ (Deleted by amendment.)

Sec. 2. ~~[NRS 449.0301 is hereby amended to read as follows:~~

~~449.0301 The provisions of NRS 449.030 to 449.2428, inclusive, and section 1 of this act do not apply to:~~

~~1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category;~~

~~2. Foster homes as defined in NRS 424.014;~~

~~3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 449.0305 is hereby amended to read as follows:~~

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

~~2. The Board shall adopt:~~

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

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

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

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

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

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

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

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

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

~~➤ A person who violates the provisions of this subsection is liable for a civil penalty to be recovered by the Attorney General in the name of the Board for the first offense of not more than \$10,000 and for a second or subsequent offense of not less than \$10,000 nor more than \$20,000. Unless otherwise~~

required by federal law, the Board shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, **and section 1 of this act** and 449.435 to 449.965, inclusive, and to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards.

~~5. This section does not apply to a medical facility that is licensed pursuant to NRS 449.030 to 449.2428, inclusive, **and section 1 of this act** on October 1, 1999.~~ **(Deleted by amendment.)**

Sec. 4. ~~NRS 449.0306 is hereby amended to read as follows:~~
~~449.0306 1. Money received from licensing medical facilities and facilities for the dependent must be forwarded to the State Treasurer for deposit in the State General Fund.~~

~~2. The Division shall enforce the provisions of NRS 449.030 to 449.245, inclusive, **and section 1 of this act** and may incur any necessary expenses not in excess of money appropriated for that purpose by the State or received from the Federal Government.~~ **(Deleted by amendment.)**

Sec. 5. ~~NRS 449.131 is hereby amended to read as follows:~~
~~449.131 1. Any authorized member or employee of the Division may enter and inspect any building or premises at any time to secure compliance with or prevent a violation of any provision of NRS 449.030 to 449.245, inclusive [.] , **and section 1 of this act**.~~

~~2. The State Fire Marshal or a designee of the State Fire Marshal shall, upon receiving a request from the Division or a written complaint concerning compliance with the plans and requirements to respond to an emergency adopted pursuant to subsection 9 of NRS 449.0302:~~

~~(a) Enter and inspect a residential facility for groups; and~~
~~(b) Make recommendations regarding the adoption of plans and requirements pursuant to subsection 9 of NRS 449.0302,~~
~~to ensure the safety of the residents of the facility in an emergency.~~

~~3. The Chief Medical Officer or a designee of the Chief Medical Officer shall enter and inspect at least annually each building or the premises of a residential facility for groups to ensure compliance with standards for health and sanitation.~~

~~4. An authorized member or employee of the Division shall enter and inspect any building or premises operated by a residential facility for groups within 72 hours after the Division is notified that a residential facility for groups is operating without a license.~~ **(Deleted by amendment.)**

Sec. 6. ~~NRS 449.160 is hereby amended to read as follows:~~
~~449.160 1. The Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.030 to 449.2428, inclusive, **and section 1 of this act** upon any of the following grounds:~~

~~(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.030 to 449.245, inclusive, **and section 1 of this act** or~~

~~of any other law of this State or of the standards, rules and regulations adopted thereunder.~~

~~— (b) Aiding, abetting or permitting the commission of any illegal act.~~

~~— (c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.~~

~~— (d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.~~

~~— (e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to NRS 449.001 to 449.430, inclusive, **and section 1 of this act** and 449.435 to 449.965, inclusive, if such approval is required.~~

~~— (f) Failure to comply with the provisions of NRS 449.2486.~~

~~2. In addition to the provisions of subsection 1, the Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:~~

~~— (a) Is convicted of violating any of the provisions of NRS 202.470;~~

~~— (b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or~~

~~— (c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.~~

~~3. The Division shall maintain a log of any complaints that it receives relating to activities for which the Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Division shall provide to a facility for the care of adults during the day:~~

~~— (a) A summary of a complaint against the facility if the investigation of the complaint by the Division either substantiates the complaint or is inconclusive;~~

~~— (b) A report of any investigation conducted with respect to the complaint; and~~

~~— (c) A report of any disciplinary action taken against the facility.~~

~~4. The facility shall make the information available to the public pursuant to NRS 449.2486.~~

~~4. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:~~

~~— (a) Any complaints included in the log maintained by the Division pursuant to subsection 3; and~~

~~— (b) Any disciplinary actions taken by the Division pursuant to subsection 2.~~ **(Deleted by amendment.)**

Sec. 7. [NRS 449.163 is hereby amended to read as follows:

~~449.163 1. In addition to the payment of the amount required by NRS 449.0308, if a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or~~

449.030 to 449.2428, inclusive, ~~and section 1 of this act~~ or any condition, standard or regulation adopted by the Board, the Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

~~—(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;~~

~~—(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;~~

~~—(c) If the license of the facility limits the occupancy of the facility and the facility has exceeded the approved occupancy, require the facility, at its own expense, to move patients to another facility that is licensed;~~

~~—(d) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and~~

~~—(e) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:~~

~~—(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or~~

~~—(2) Improvements are made to correct the violation.~~

~~2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (d) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.~~

~~3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (d) of subsection 1, the Division may:~~

~~—(a) Suspend the license of the facility until the administrative penalty is paid; and~~

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

~~4. The Division may require any facility that violates any provision of NRS 439B.410 or 449.030 to 449.2428, inclusive, and section 1 of this act or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.~~

~~5. Any money collected as administrative penalties pursuant to paragraph (d) of subsection 1 must be accounted for separately and used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, and section 1 of this act and 449.435 to 449.965, inclusive, and to protect the health, safety, well being and property of the patients and residents of facilities in accordance with applicable state and federal standards. (Deleted by amendment.)~~

Sec. 8. ~~[NRS 449.210 is hereby amended to read as follows:~~

~~449.210 1. In addition to the payment of the amount required by NRS 449.0308, except as otherwise provided in subsection 2 and~~

~~NRS 449.24897, a person who operates a medical facility or facility for the dependent without a license issued by the Division is guilty of a misdemeanor.~~

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

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

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

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

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

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

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

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

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

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

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

~~4. Unless otherwise required by federal law, the Division shall deposit all civil penalties collected pursuant to paragraph (a) of subsection 2 into a separate account in the State General Fund to be used to administer and carry out the provisions of NRS 449.001 to 449.430, inclusive, and section 1 of this act and 449.935 to 449.965, inclusive, and to protect the health, safety, well-being and property of the patients and residents of facilities and homes for individual residential care in accordance with applicable state and federal standards.] (Deleted by amendment.)~~

~~Sec. 9. [NRS 449.240 is hereby amended to read as follows:~~

~~449.240 The district attorney of the county in which the facility is located shall, upon application by the Division, institute and conduct the prosecution~~

~~of any action for violation of any provisions of NRS 449.030 to 449.245, inclusive [], and section 1 of this act.] (Deleted by amendment.)~~

~~Sec. 10. [NRS 654.190 is hereby amended to read as follows:~~

~~654.190 1. The Board may, after notice and an opportunity for a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any nursing facility administrator or administrator of a residential facility for groups who:~~

~~(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude;~~

~~(b) Has obtained his or her license by the use of fraud or deceit;~~

~~(c) Violates any of the provisions of this chapter.~~

~~(d) Aids or abets any person in the violation of any of the provisions of NRS 449.030 to 449.2428, inclusive, and section 1 of this act, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.~~

~~(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.~~

~~(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.~~

~~2. If a licensee requests a hearing pursuant to subsection 1, the Board shall give the licensee written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.~~

~~3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.~~

~~4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.~~

~~5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.] (Deleted by amendment.)~~

~~Sec. 11. [This act becomes effective:~~

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

~~2. On January 1, 2016, for all other purposes.] (Deleted by amendment.)~~

Sec. 12. 1. The Legislative Commission shall appoint a subcommittee to conduct an interim study of postacute care in this State.

2. The subcommittee must be composed of four Legislators as follows:

(a) One member appointed by the Majority Leader of the Senate from the membership of the Senate Standing Committee on Health and Human Services;

(b) One member appointed by the Minority Leader of the Senate from the membership of the Senate Standing Committee on Health and Human Services;

(c) One member appointed by the Speaker of the Assembly from the membership of the Assembly Standing Committee on Health and Human Services; and

(d) One member appointed by the Minority Leader of the Assembly from the membership of the Assembly Standing Committee on Health and Human Services.

3. The study must include, without limitation:

(a) A review and evaluation of the quality and funding of postacute care in this State and alternatives to institutionalization for providing such care, including home- and community-based waiver programs;

(b) An evaluation of the cost of such alternatives and potential savings from each alternative;

(c) Consideration of the positive and negative effects of the various alternatives for providing postacute care services on the quality of life of persons receiving those services in this State;

(d) A review of state and national quality measures for postacute care required to be reported by Medicare, Medicaid and this State; and

(e) A review of state and federal funding for postacute care, including the funding formula used in this State.

4. Any recommended legislation proposed by the subcommittee must be approved by a majority of the members of the subcommittee.

5. The Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.

Sec. 13. This act becomes effective on July 1, 2015.

Assemblyman Oscarson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 244.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:
Amendment No. 555.

SUMMARY—Provides an enhanced penalty for committing ~~{three or more}~~ **certain repeat** graffiti offenses. (BDR 15-736)

AN ACT relating to crimes; providing an enhanced penalty for committing ~~{three or more}~~ **certain repeat** offenses of placing graffiti on or otherwise defacing certain property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person who unlawfully places graffiti on or otherwise defaces the public or private property of another without the permission of the owner is guilty of a misdemeanor, gross misdemeanor or felony, depending on the value of the loss of the property. ~~{Additionally, if a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of the loss of all the property must be aggregated for the purposes of determining a penalty if the value of the loss is \$500 or more.}~~ (NRS 206.330) This bill provides that if a person ~~{commits three or more offenses,}~~ **has previously been convicted two or more times of placing graffiti on or otherwise defacing public or private property or has previously been convicted of a felony for such conduct, and the person commits another such violation,** regardless of the value of the loss, the person is guilty of a category C felony.

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

Section 1. NRS 206.330 is hereby amended to read as follows:

206.330 1. Unless a greater criminal penalty is provided by a specific statute, a person who places graffiti on or otherwise defaces the public or private property, real or personal, of another, without the permission of the owner:

- (a) Where the value of the loss is less than \$250, is guilty of a misdemeanor.
- (b) Where the value of the loss is \$250 or more but less than \$5,000, is guilty of a gross misdemeanor.
- (c) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.
- (d) Where the offense is committed on any protected site in this State, is guilty of a category D felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

~~{(e) Where three or more offenses are committed,}~~

2. Unless a greater penalty is provided by a specific statute, a person who has previously been convicted of a violation of subsection 1:

(a) Two or more times; or

(b) That was punished as a felony,

↪ and who violates subsection 1, regardless of the value of the loss, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

~~{2.}~~ **3.** If a person commits more than one offense ~~{two offenses}~~ pursuant to a scheme or continuing course of conduct, the value of all property damaged or destroyed by that person in the commission of those offenses must be aggregated for the purpose of determining the penalty prescribed in subsection 1, but only if the value of the loss when aggregated is \$500 or more.

~~{3.}~~ **4.** A person who violates subsection 1 shall, in addition to any other fine or penalty imposed:

(a) For the first offense, pay a fine of not less than \$400 but not more than \$1,000 and perform 100 hours of community service.

(b) For the second offense, pay a fine of not less than \$750 but not more than \$1,000 and perform 200 hours of community service.

(c) For the third and each subsequent offense:

(1) Pay a fine of \$1,000; and

(2) Perform up to 300 hours of community service for up to 1 year, as determined by the court. The court may order the person to repair, replace, clean up or keep free of graffiti the property damaged or destroyed by the person or, if it is not practicable for the person to repair, replace, clean up or keep free of graffiti that specific property, the court may order the person to repair, replace, clean up or keep free of graffiti another specified property.

↪ The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.

~~{4.}~~ **5.** The court may, in addition to any other fine or penalty imposed, order a person who violates subsection 1 to pay restitution.

~~{5.}~~ **6.** The parent or legal guardian of a person under 18 years of age who violates this section is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service.

~~{6.}~~ **7.** If a person who is 18 years of age or older is found guilty of violating this section, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months but not more than 2 years. The court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court shall issue an order prohibiting the person from applying for a driver's license for not less than 6 months but not more than 2 years. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses together with a copy of the order.

~~{7.}~~ **8.** The Department of Motor Vehicles:

(a) Shall not treat a violation of this section in the manner statutorily required for a moving traffic violation.

(b) Shall report the suspension of a driver's license pursuant to this section to an insurance company or its agent inquiring about the person's driving record. An insurance company shall not use any information obtained pursuant to this paragraph for purposes related to establishing premium rates or determining whether to underwrite the insurance.

~~§ 9.~~ 9. A criminal penalty imposed pursuant to this section is in addition to any civil penalty or other remedy available pursuant to this section or another statute for the same conduct.

~~§ 9.~~ 10. As used in this section:

(a) "Impairment" means the disruption of ordinary and incidental services, the temporary loss of use or the removal of the property from service for repair of damage.

(b) "Protected site" means:

(1) Any site, landmark, monument, building or structure of historical significance pertaining to the history of the settlement of Nevada;

(2) Any site, building, structure, object or district listed in the register of historic resources of a community which is recognized as a Certified Local Government pursuant to the Certified Local Government Program jointly administered by the National Park Service and the Office of Historic Preservation of the State Department of Conservation and Natural Resources;

(3) Any site, building, structure, object or district listed in the State Register of Historic Places pursuant to NRS 383.085 or the National Register of Historic Places;

(4) Any site, building, structure, object or district that is more than 50 years old and is located in a municipal or state park;

(5) Any Indian campgrounds, shelters, petroglyphs, pictographs and burials; or

(6) Any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves, burial ground or sites of religious or cultural importance to an Indian tribe.

(c) "Value of the loss" means the cost of repairing, restoring or replacing the property, including, without limitation, the cost of any materials and labor necessary to repair, restore or replace the item.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 246.

Bill read second time.

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

Amendment No. 521.

AN ACT relating to cosmetology; revising provisions governing advertising of services relating to the practice of cosmetology; establishing the procedures for the registration and training of apprentices for aestheticians, hair designers and nail technologists; establishing the procedures for the ~~licensure~~ **registration** of shampoo technologists; providing a fee for the registration of such apprentices and ~~the licensure of~~ shampoo technologists; revising provisions relating to the licensure of various cosmetology professionals, cosmetological establishments and schools of cosmetology; revising provisions concerning service animals and service animals in training that are on the premises of a licensed establishment for hair braiding or cosmetological establishment; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Cosmetology to determine the qualification of applicants for various licenses in cosmetology, requires the Board to license schools of cosmetology and authorizes the Board to adopt regulations governing the sanitary conditions in cosmetological establishments, schools of cosmetology and in the practice of cosmetology. (NRS 644.090, 644.120)

Sections 3 and 17 of this bill make it unlawful to advertise in any manner that is misleading or inaccurate with respect to the provision of any services relating to the practice of cosmetology. Under existing law, a violation of any provision of the chapter governing cosmetology is punishable as a misdemeanor. (NRS 644.480) **Section 60** of this bill provides that advertising in violation of **section 17** is also a ground for disciplinary action by the Board.

Sections 5, 7, 8, 12-14, 29 and 39 of this bill establish the procedures for the registration, training and practice of apprentices for aestheticians, hair designers and nail technologists. **Sections 10, 15 and 16** of this bill establish a new ~~license~~ **certificate of registration** as a shampoo technologist and set forth the requirements, including passing certain examinations, that must be met before the Board may issue such a ~~license~~ **certificate of registration** to a person. **Section 60** provides that failure of a shampoo technologist, aesthetician's apprentice, hair designer's apprentice or nail technologist's apprentice to comply with the requirements relating to those professions is a ground for disciplinary action by the Board.

Existing law excludes a licensed barbershop in which one or more licensed nail technologists practice from the definition of "cosmetological establishment." (NRS 644.0225) **Section 20** of this bill removes that exception, thus subjecting a nail technologist who practices in a licensed barbershop to the same requirements as a nail technologist who practices in a cosmetological establishment.

Existing law requires the Board to approve the use of any device used in the practice of cosmetology. (NRS 644.095) **Section 25** of this bill authorizes the Board to adopt regulations that ban the use of any device in the practice of

cosmetology for good cause or if the device facilitates services outside the scope of the practice of cosmetology.

Sections 27 and 28 of this bill revise the duties of the Board concerning: (1) records of licensees; and (2) depositing fees collected on behalf of the Board.

Section 30 of this bill changes the requirements for admission to examination for a license as a cosmetologist by: (1) reducing the amount of training in a school of cosmetology from 1,800 to 1,600 hours for certain applicants; and (2) increasing the amount of specialized training from 400 to 600 hours for applicants who are barbers. **Section 31** of this bill eliminates the requirement that a barber must have 400 hours of specialized training before the Board will admit the barber to examination for a license as a hair designer.

Sections 34, 35 and 41 of this bill revise the requirements for obtaining a license as a hair braider by: (1) eliminating a voter registration card as a document that can be used as proof of the age of an applicant for a license as a hair braider; and (2) adding additional tests or examinations that the Board deems necessary to the requirements for the examination for licensure as a hair braider.

Section 43 of this bill requires every holder of a license **or certificate of registration, as applicable,** as a cosmetologist, aesthetician, electrologist, hair designer, shampoo technologist, hair braider, nail technologist or demonstrator of cosmetics to notify the Board within 30 days after a change in his or her personal mailing address.

Section 44 of this bill expands the applicability and revises the period of validity of a limited license to practice cosmetology in a resort hotel and in other types of locations designated by the Board to include: (1) persons currently licensed in this State as a cosmetologist and (2) persons currently licensed in this State or certain other jurisdictions as a hair designer, nail technologist or aesthetician.

Sections 45, 46, 49, 51, 55, 57 and 58 of this bill provide the holder of a license **or certificate of registration, as applicable,** as a cosmetologist, aesthetician, electrologist, hair designer, shampoo technologist, hair braider, nail technologist, demonstrator of cosmetics or instructor and the holder of a license for a cosmetological establishment, establishment for hair braiding or school of cosmetology with the option of having a license period of either 2 or 4 years and set forth the specific fee or range of fees, as applicable, for those periods.

Existing law provides a range of fees that the Board may charge for examination for licensure or registration as a cosmetologist, electrologist, hair designer, hair braider, nail technologist, aesthetician and as an instructor of aestheticians, hair designers, cosmetology or nail technology. (NRS 644.220) Section 45 adds shampoo technologists and sets forth fees for the issuance of an initial license or certificate of registration for a period of either 2 or 4 years to practice in each of those branches of cosmetology and for an instructor of aestheticians, hair designers, cosmetology or nail technology.

Existing law prohibits the Board from charging a fee for registering: (1) a person who engages in the practice of threading; or (2) an owner or operator of a kiosk or other stand-alone facility in which threading is practiced. (NRS 644.331) **Section 48** of this bill: (1) requires a fee of not more than \$25 for registration of such a natural person, owner or operator; and (2) requires, rather than authorizes, the Board to inspect any facility in this State in which threading is conducted.

Sections 52 and 54 of this bill require a cosmetological establishment to be under the immediate supervision of a person who is licensed in the branch of cosmetology or a combination of branches of cosmetology of the services relating to the practice of cosmetology provided at the cosmetological establishment at the time the services are provided. Those supervision requirements similarly apply to lessees of space at a cosmetological establishment.

Section 58 of this bill requires the Board to adopt regulations which prescribe the minimum enrollment of students and the amount of floor space required for a proposed school of cosmetology.

The United States District Court for the District of Nevada recently held that certain provisions of Nevada Revised Statutes governing the supervision, instructors and courses given at schools of cosmetology were unconstitutional as applied to makeup artistry schools. (*Waugh v. Nev. State Bd. of Cosmetology*, 2014 U.S. Dist. LEXIS 108223 (D. Nev. August 6, 2014)) **Section 59** of this bill amends those provisions to: (1) require instructors who supervise a school of cosmetology to have experience in a majority of branches of cosmetology taught at the school of cosmetology instead of experience in a majority of the branches of cosmetology; (2) require a school of cosmetology to either prepare students for an examination for a license in each branch of cosmetology taught at the school of cosmetology or provide a disclaimer to its students indicating that the school does not qualify the student for a license or prepare the student for an examination in any branch of cosmetology; and (3) eliminate the requirement relating to the length of the school term at a school of cosmetology.

Existing law provides, with limited exceptions, that it is unlawful for any animal to be on the premises of a licensed establishment for hair braiding or cosmetological establishment. (NRS 644.472) **Section 63** of this bill expands those exceptions to allow in such an establishment dogs and miniature horses that are trained or being trained for the purposes of certain federal laws governing public accommodations.

Existing law also provides, in relevant part, that it is unlawful for a place of public accommodation, including, without limitation, a beauty shop, to refuse: (1) admittance or service to a person with a disability because the person is accompanied by a service animal; (2) admittance or service to a person training a service animal; (3) to permit an employee who is training a service animal to bring the service animal into the place of public accommodation; and (4) admittance or service to a person because the person is accompanied by a

police dog. (NRS 651.050, 651.075) The definition of “service animal” for the purposes of state law governing public accommodations is broader than the types of service animals that are covered under federal law governing public accommodations which covers only dogs and miniature horses. (28 C.F.R. §§ 35.104, 36.302) **Section 64** of this bill provides an exception that is consistent with the provisions of **section 63** to the existing state law governing public accommodations. Thus, a licensed establishment for hair braiding or cosmetological establishment in this State will be required to admit only dogs and miniature horses trained or being trained as service animals under federal law, while other places of public accommodation in this State will be required to admit service animals, service animals in training and police dogs as those terms are defined under the broader definitions of service animal and service animal in training which include additional animals. For example, a helper monkey would be included under those broader definitions.

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

Section 1. NRS 640C.100 is hereby amended to read as follows:

640C.100 1. The provisions of this chapter do not apply to:

(a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 640, 640A or 640B of NRS if the massage therapy is performed in the course of the practice for which the person is licensed.

(b) A person licensed as a barber or apprentice pursuant to chapter 643 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for a barber or apprentice pursuant to that chapter.

(c) A person licensed or registered as ~~an~~ a nail technologist, nail technologist's apprentice, aesthetician, aesthetician's apprentice, hair designer, hair designer's apprentice, hair braider, shampoo technologist, cosmetologist or cosmetologist's apprentice pursuant to chapter 644 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for ~~an~~ a nail technologist, nail technologist's apprentice, aesthetician, aesthetician's apprentice, hair designer, hair designer's apprentice, hair braider, shampoo technologist, cosmetologist or cosmetologist's apprentice pursuant to that chapter.

(d) A person who is an employee of an athletic department of any high school, college or university in this State and who, within the scope of that employment, practices massage therapy on athletes.

(e) Students enrolled in a school of massage therapy recognized by the Board.

(f) A person who practices massage therapy solely on members of his or her immediate family.

(g) A person who performs any activity in a licensed brothel.

2. Except as otherwise provided in subsection 3, the provisions of this chapter preempt the licensure and regulation of a massage therapist by a

county, city or town, including, without limitation, conducting a criminal background investigation and examination of a massage therapist or applicant for a license to practice massage therapy.

3. The provisions of this chapter do not prohibit a county, city or town from requiring a massage therapist to obtain a license or permit to transact business within the jurisdiction of the county, city or town, if the license or permit is required of other persons, regardless of occupation or profession, who transact business within the jurisdiction of the county, city or town.

4. As used in this section, “immediate family” means persons who are related by blood, adoption or marriage, within the second degree of consanguinity or affinity.

Sec. 2. Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 17, inclusive, of this act.

Sec. 3. *“Advertise” and “advertising” mean an attempt by written, electronic or graphic representation to elicit enrollment or the sale of goods or services. The terms include, without limitation, such representations made:*

1. On signs, displays, circulars, brochures, menus of services and recruitment materials; and

2. On the Internet, through the press, radio or television, or by use of any other medium.

Sec. 4. *1. “Aesthetics” means the practices of:*

(a) Beautifying, massaging, cleansing or stimulating the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

(b) Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body; and

(c) Removing superfluous hair from the body of any person by the use of depilatories, waxing, tweezers or sugaring,

↪ but does not include the branches of cosmetology of a cosmetologist, hair designer, shampoo technologist, hair braider, electrologist or nail technologist.

2. As used in this section, “depilatories” does not include the practice of threading.

Sec. 5. *“Aesthetician’s apprentice” means a person who is engaged in learning the occupation of an aesthetician in a cosmetological establishment and who is registered with the Board to practice aesthetics as an aesthetician’s apprentice.*

Sec. 6. *“Hair design” means the practices of:*

1. Cleansing, stimulating or massaging the scalp, or cleansing or beautifying the hair by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

2. Cutting, trimming or shaping the hair.

3. Arranging, dressing, curling, waving, cleansing, singeing, bleaching, tinting, coloring or straightening the hair of any person with the hands or

mechanical or electrical apparatus or appliances, or by other means or similar work incident to or necessary for the proper carrying on of the practice or occupation of hair designer provided by the terms of this chapter.

Sec. 7. *“Hair designer’s apprentice” means a person who is engaged in learning the occupation of a hair designer in a cosmetological establishment and who is registered with the Board to practice hair design as a hair designer’s apprentice.*

Sec. 8. *“Nail technologist’s apprentice” means a person who is engaged in learning the occupation of a nail technologist in a cosmetological establishment and who is registered with the Board to practice nail technology as a nail technologist’s apprentice.*

Sec. 9. *“Nail technology” means the practices of:*

- 1. Care of another’s fingernails or toenails.*
- 2. Beautification of another’s nails.*
- 3. Extension of another’s nails.*
- 4. Massaging of another’s hands, forearms, feet or lower legs.*

Sec. 10. *“Shampoo technologist” means any person who, for compensation or by demonstration, engages in shampoo technology ~~for~~ under the immediate supervision of a licensed cosmetologist or hair designer.*

Sec. 11. 1. *“Shampoo technology” means the practices of:*

(a) Cleansing of the hair or scalp, including, without limitation:

- (1) Brushing and combing the hair;*
- (2) Applying shampoo and conditioner to the hair; and*
- (3) Rinsing the hair, including, without limitation, rinsing the hair to remove shampoos, conditioners, tints, relaxers and other solutions.*

(b) Removing rollers, permanent rods, hairpins, clips or similar hair fasteners from the hair.

(c) Cleaning and disinfecting the shampoo bowl.

2. *The term does not include any other activity set forth in the definition of “cosmetologist” pursuant to NRS 644.023 or the definition of “hair design” pursuant to section 6 of this act other than the activities expressly set forth in subsection 1.*

Sec. 12. 1. *The Board may issue a certificate of registration as an aesthetician’s apprentice to a person if:*

(a) The person is required to travel more than 60 miles from his or her place of residence to attend a licensed school of cosmetology; and

(b) The training of the person as an aesthetician’s apprentice will be conducted at a licensed cosmetological establishment that is located 60 miles or more from a licensed school of cosmetology.

2. *The Board may, for good cause shown, waive the requirements of subsection 1 for a particular applicant.*

3. *An applicant for a certificate of registration as an aesthetician’s apprentice must submit an application to the Board on a form prescribed by*

the Board. The application must be accompanied by a fee of \$100 and must include:

(a) A statement signed by the licensed aesthetician or licensed cosmetologist who will be supervising and training the aesthetician's apprentice which states that the licensed aesthetician or licensed cosmetologist has been licensed by the Board to practice aesthetics in this State for not less than 3 years immediately preceding the date of the application and that his or her license has been in good standing during that period;

(b) A statement signed by the owner of the licensed cosmetological establishment where the applicant will be trained which states that the owner will permit the applicant to be trained as an aesthetician's apprentice at the cosmetological establishment; and

(c) Such other information as the Board may require by regulation.

4. A certificate of registration as an aesthetician's apprentice is valid for 12 months after the date on which it is issued and may be renewed by the Board upon good cause shown.

Sec. 13. 1. The Board may issue a certificate of registration as a hair designer's apprentice to a person if:

(a) The person is required to travel more than 60 miles from his or her place of residence to attend a licensed school of cosmetology; and

(b) The training of the person as a hair designer's apprentice will be conducted at a licensed cosmetological establishment that is located 60 miles or more from a licensed school of cosmetology.

2. The Board may, for good cause shown, waive the requirements of subsection 1 for a particular applicant.

3. An applicant for a certificate of registration as a hair designer's apprentice must submit an application to the Board on a form prescribed by the Board. The application must be accompanied by a fee of \$100 and must include:

(a) A statement signed by the licensed hair designer or licensed cosmetologist who will be supervising and training the hair designer's apprentice which states that the licensed hair designer or licensed cosmetologist has been licensed by the Board to practice hair design in this State for not less than 3 years immediately preceding the date of the application and that his or her license has been in good standing during that period;

(b) A statement signed by the owner of the licensed cosmetological establishment where the applicant will be trained which states that the owner will permit the applicant to be trained as a hair designer's apprentice at the cosmetological establishment; and

(c) Such other information as the Board may require by regulation.

4. A certificate of registration as a hair designer's apprentice is valid for 19 months after the date on which it is issued and may be renewed by the Board upon good cause shown.

Sec. 14. 1. *The Board may issue a certificate of registration as a nail technologist's apprentice to a person if:*

(a) *The person is required to travel more than 60 miles from his or her place of residence to attend a licensed school of cosmetology; and*

(b) *The training of the person as a nail technologist's apprentice will be conducted at a licensed cosmetological establishment that is located 60 miles or more from a licensed school of cosmetology.*

2. *The Board may, for good cause shown, waive the requirements of subsection 1 for a particular applicant.*

3. *An applicant for a certificate of registration as a nail technologist's apprentice must submit an application to the Board on a form prescribed by the Board. The application must be accompanied by a fee of \$100 and must include:*

(a) *A statement signed by the licensed nail technologist or licensed cosmetologist who will be supervising and training the nail technologist's apprentice which states that the licensed nail technologist or licensed cosmetologist has been licensed by the Board to practice nail technology in this State for not less than 3 years immediately preceding the date of the application and that his or her license has been in good standing during that period;*

(b) *A statement signed by the owner of the licensed cosmetological establishment where the applicant will be trained which states that the owner will permit the applicant to be trained as a nail technologist's apprentice at the cosmetological establishment; and*

(c) *Such other information as the Board may require by regulation.*

4. *A certificate of registration as a nail technologist's apprentice is valid for 10 months after the date on which it is issued and may be renewed by the Board upon good cause shown.*

Sec. 15. 1. ~~The Board shall admit to examination for a license~~ certificate of registration as a shampoo technologist, any person who has applied to the Board in proper form and paid the fee, and who:

~~1.1~~ (a) *Is not less than 16 years of age.*

~~1.2~~ (b) *Is of good moral character.*

~~1.3~~ (c) *Is a citizen of the United States or is lawfully entitled to remain and work in the United States.*

~~1.4~~ (d) *Has successfully completed the 10th grade in school or its equivalent.*

~~1.5. Has had~~

(e) *Satisfies at least one of the following:*

~~1.6~~ (1) Training of at least 50 hours in a licensed school of cosmetology as a student of the occupation of a cosmetologist or hair designer;

(2) Training of at least ~~200~~ 50 hours in a licensed school of cosmetology ~~for~~

~~(b) Practice~~ in a curriculum prescribed by the Board by regulation;

(3) Training of at least 50 hours which is administered online by the Board in a curriculum prescribed by the Board by regulation; or

(4) Has had practice as a full-time licensed shampoo technologist for 1 year outside this State.

2. The Board may charge a fee of not more than \$50 to administer the training described in subparagraph (3) of paragraph (e) of subsection 1.

3. A certificate of registration as a shampoo technologist is valid for 2 years after the date on which it is issued and may be renewed by the Board upon good cause shown.

Sec. 16. The examination for a ~~license~~ certificate of registration as a shampoo technologist must include:

1. Practical demonstrations in shampooing and rinsing the hair which are approved and conducted by the Board or a licensed school of cosmetology;

2. A written test on the laws of Nevada and the regulations of the Board relating to cosmetology; and

3. Such other demonstrations and tests as the Board requires.

Sec. 17. With regard to advertising relating to the education, licensing or practice of cosmetology or threading:

1. It is unlawful to advertise in any manner that is misleading or inaccurate with respect to any services relating to the practice of cosmetology offered by a licensee or other natural person.

2. An advertisement must not state or imply favorable consideration by the Board except that an advertisement may state that a cosmetological establishment, establishment for hair braiding, school of cosmetology or licensee is licensed by the Board.

3. Except as otherwise provided in subsection 4, an advertisement for services relating to the practice of cosmetology must list:

(a) The name, as it appears on the license, and license number of the cosmetological establishment or establishment for hair braiding where the services will be provided; and

(b) The name and license number of any licensee mentioned in the advertisement.

4. An advertisement for services relating to the practice of cosmetology to be provided at a school of cosmetology must list the name, as it appears on the license, and license number of the school of cosmetology where the services will be provided.

Sec. 18. NRS 644.020 is hereby amended to read as follows:

644.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 644.0205 to 644.0295, inclusive, **and sections 3 to 11, inclusive of this act** have the meanings ascribed to them in those sections.

Sec. 19. NRS 644.0205 is hereby amended to read as follows:

644.0205 ~~{1-}~~ "Aesthetician" means any person who engages in the ~~practices of:~~

~~—(a) Beautifying, massaging, cleansing or stimulating the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;~~

~~—(b) Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body; and~~

~~—(c) Removing superfluous hair from the body of any person by the use of depilatories, waxing, tweezers or sugaring;~~

~~➔ but does not include the branches of cosmetology of a cosmetologist, hair designer, hair braider, electrologist or nail technologist.~~

~~—2. As used in this section, “depilatories” does not include the practice of threading.}~~ **practice of aesthetics.**

Sec. 20. NRS 644.0225 is hereby amended to read as follows:

644.0225 “Cosmetological establishment” means any premises, mobile unit, building or part of a building where cosmetology is practiced . ~~[- other than a licensed barbershop in which one or more licensed nail technologists practice.}~~

Sec. 21. NRS 644.024 is hereby amended to read as follows:

644.024 “Cosmetology” includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, **shampoo technologist**, hair braider, demonstrator of cosmetics and nail technologist.

Sec. 22. NRS 644.0277 is hereby amended to read as follows:

644.0277 “Hair designer” means any person who engages in the ~~[-practices of:~~

~~—1. Cleansing, stimulating or massaging the scalp, or cleansing or beautifying the hair by the use of cosmetic preparations, antiseptics, tonics, lotions or creams;~~

~~—2. Cutting, trimming or shaping the hair.~~

~~—3. Arranging, dressing, curling, waving, cleansing, singeing, bleaching, tinting, coloring or straightening the hair of any person with the hands or mechanical or electrical apparatus or appliances, or by other means or similar work incident to or necessary for the proper carrying on of the practice or occupation provided by the terms of this chapter.}~~ **practice of hair design.**

Sec. 23. NRS 644.029 is hereby amended to read as follows:

644.029 “Nail technologist” means any person who, for compensation or by demonstration, engages in the ~~[-practices of:~~

~~—1. Care of another’s fingernails or toenails.~~

~~—2. Beautification of another’s nails.~~

~~—3. Extension of another’s nails.~~

~~—4. Massaging of another’s hands, forearms, feet or lower legs.}~~ **practice of nail technology.**

Sec. 24. NRS 644.090 is hereby amended to read as follows:

644.090 The Board shall:

1. Hold examinations to determine the qualifications of all applicants for a license, except as otherwise provided in this chapter, whose applications have been submitted to it in proper form.

2. Issue licenses to such applicants as may be entitled thereto.

3. License establishments for hair braiding, cosmetological establishments and schools of cosmetology.

4. Report to the proper prosecuting officer or law enforcement agency each violation of this chapter coming within its knowledge.

5. Inspect schools of cosmetology, establishments for hair braiding, ~~and~~ cosmetological establishments **and any facility in this State in which threading is conducted** to ensure compliance with the statutory requirements and adopted regulations of the Board. This authority extends to any member of the Board or its authorized employees.

Sec. 25. NRS 644.095 is hereby amended to read as follows:

644.095 ~~{Any}~~

1. The Board may, by regulation, ban the use of any device ~~used~~ in the practice of cosmetology ~~{must be approved by the Board.}~~ for good cause or if the device facilitates services outside the scope of the practice of cosmetology.

2. Except as otherwise provided in this subsection, a device the use of which has been banned by the Board pursuant to subsection 1 must not be located within a cosmetological establishment. Such a device may be located within an area of a cosmetological establishment used for selling products at retail.

Sec. 26. NRS 644.120 is hereby amended to read as follows:

644.120 1. The Board may adopt such regulations governing sanitary conditions as it deems necessary with particular reference to the precautions to be employed to prevent the creating or spreading of infectious or contagious diseases in the practice of hair braiding, in establishments for hair braiding, in the practice of a cosmetologist, in cosmetological establishments or schools of cosmetology, in the practice of threading and in any facility in this State in which threading is conducted.

2. No regulation governing sanitary conditions thus adopted has any effect until it has been approved by the State Board of Health.

3. A copy of all regulations governing sanitary conditions which are adopted must be furnished to each person to whom a license is issued for the conduct of a cosmetological establishment, establishment for hair braiding, school of cosmetology, ~~for~~ practice of cosmetology ~~{-}~~ **or facility in this State in which threading is conducted.**

Sec. 27. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place **or places** of business, **electronic mail address, personal mailing address, telephone number** and the date and number of the license **or certificate of registration, as applicable,** of every nail technologist, electrologist, aesthetician, hair designer, **shampoo technologist**, hair braider, demonstrator of cosmetics and cosmetologist, together with the names and addresses of all establishments for hair braiding, cosmetological establishments and schools of cosmetology licensed pursuant to this chapter.

The record must also contain the facts which the applicants claimed in their applications to justify their licensure ~~or~~ or registration.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

- (a) Any other licensing board or agency that is investigating a licensee.
- (b) A member of the general public, except information concerning the ~~home and~~ personal mailing address, work address, electronic mail address and telephone number of a licensee ~~or~~ or registrant.

Sec. 28. NRS 644.170 is hereby amended to read as follows:

644.170 1. All fees collected on behalf of the Board and all receipts of every kind and nature must be reported at the beginning of each month, for the month preceding, to the Board. At the same time, the entire amount of collections, except as otherwise provided in subsection 5, must be paid to the ~~Treasurer of the~~ Board, who shall deposit them in banks, credit unions or savings and loan associations in the State of Nevada.

2. The receipts must be for the uses of the Board and out of them must be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter.

3. All orders for payment of money must be drawn on the Treasurer of the Board and countersigned by the President and the Secretary of the Board.

4. In a manner consistent with the provisions of chapter 622A of NRS, the Board may delegate to a hearing officer or panel its authority to take any disciplinary action pursuant to this chapter, impose and collect fines therefor and deposit the money therefrom in banks, credit unions or savings and loan associations in this State.

5. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 4 and the Board deposits the money collected from the imposition of fines with the State Treasurer for credit to the State General Fund, it may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

Sec. 29. NRS 644.190 is hereby amended to read as follows:

644.190 1. It is unlawful for any person to conduct or operate a cosmetological establishment, an establishment for hair braiding, a school of cosmetology or any other place of business in which any one or any combination of the occupations of cosmetology are taught or practiced unless the person is licensed in accordance with the provisions of this chapter.

2. Except as otherwise provided in subsections 4 and 5, it is unlawful for any person to engage in, or attempt to engage in, the practice of cosmetology or any branch thereof, whether for compensation or otherwise, unless the person is licensed or registered in accordance with the provisions of this chapter.

3. This chapter does not prohibit:

- (a) Any student in any school of cosmetology established pursuant to the provisions of this chapter from engaging, in the school and as a student, in

work connected with any branch or any combination of branches of cosmetology in the school.

(b) An electrologist's apprentice from participating in a course of practical training and study.

(c) A person issued a provisional license as an instructor pursuant to NRS 644.193 from acting as an instructor and accepting compensation therefor while accumulating the hours of training as a teacher required for an instructor's license.

(d) The rendering of ~~cosmetological~~ services **relating to the practice of cosmetology** by a person who is licensed **or registered** in accordance with the provisions of this chapter, if those services are rendered in connection with photographic services provided by a photographer.

(e) A registered cosmetologist's apprentice from engaging in the practice of cosmetology under the immediate supervision of a licensed cosmetologist.

(f) A registered shampoo technologist from engaging in the practice of shampoo technology under the immediate supervision of a licensed cosmetologist or hair designer.

(g) A registered aesthetician's apprentice from engaging in the practice of aesthetics under the immediate supervision of a licensed aesthetician or licensed cosmetologist.

(h) A registered hair designer's apprentice from engaging in the practice of hair design under the immediate supervision of a licensed hair designer or licensed cosmetologist.

(i) A registered nail technologist's apprentice from engaging in the practice of nail technology under the immediate supervision of a licensed nail technologist or licensed cosmetologist.

4. A person employed to render ~~cosmetological~~ services **relating to the practice of cosmetology** in the course of and incidental to the production of a motion picture, television program, commercial or advertisement is exempt from the licensing requirements of this chapter if he or she renders ~~cosmetological~~ those services only to persons who will appear in that motion picture, television program, commercial or advertisement.

5. A person practicing hair braiding is exempt from the licensing requirements of this chapter applicable to hair braiding if the hair braiding is practiced on a person who is related within the sixth degree of consanguinity and the person does not accept compensation for the hair braiding.

Sec. 30. NRS 644.200 is hereby amended to read as follows:

644.200 The Board shall admit to examination for a license as a cosmetologist, at any meeting of the Board held to conduct examinations, any person who has made application to the Board in proper form and paid the fee, and who before or on the date of the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to applicable state or federal requirements.

5. Has had any one of the following:

(a) Training of at least ~~1,800~~ **1,600** hours, extending over a school term of 10 months, in a school of cosmetology approved by the Board.

(b) Practice of the occupation of a cosmetologist for a period of 4 years outside this State.

(c) If the applicant is a barber registered pursuant to chapter 643 of NRS, ~~400~~ **600** hours of specialized training approved by the Board.

(d) ~~Completion of at~~ **At** least 3,600 hours of service as a cosmetologist's apprentice in a licensed cosmetological establishment in which all of the occupations of cosmetology are practiced. The required hours must have been completed during the period of validity of the certificate of registration as a cosmetologist's apprentice issued to the person pursuant to NRS 644.217.

Sec. 31. NRS 644.204 is hereby amended to read as follows:

644.204 The Board shall admit to examination for a license as a hair designer, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:

1. Is not less than 18 years of age.

2. Is of good moral character.

3. Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

5. ~~Has~~ **Is a barber registered pursuant to chapter 643 of NRS.**

~~6. Has had~~ **Satisfies** at least ~~any~~ one of the following:

(a) ~~Training~~ **Is a barber registered pursuant to chapter 643 of NRS.**

(b) Has had training of at least 1,200 hours, extending over a period of 7 consecutive months, in a school of cosmetology approved by the Board.

~~((b) Practice)~~

(c) Has had practice of the occupation of hair designing for at least 4 years outside this State.

~~((c) If the applicant is a barber registered pursuant to chapter 643 of NRS, 400 hours of specialized training approved by the Board. At)~~

(d) Has had at least 2,400 hours of service as a hair designer's apprentice in a licensed cosmetological establishment in which hair design is practiced. The required hours must have been completed during the period of validity of the certificate of registration as a hair designer's apprentice issued to the person pursuant to section 13 of this act.

Sec. 32. NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee and who, before or on the date of the examination:

1. Is not less than 18 years of age.

2. Is of good moral character.
3. Is a citizen of the United States or is lawfully entitled to remain and work in the United States.
4. Has successfully completed the 10th grade in school or its equivalent.
5. Has had any one of the following:
 - (a) Practical training of at least 600 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.
 - (b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.
 - (c) ***At least 1,200 hours of service as a nail technologist's apprentice in a licensed cosmetological establishment in which nail technology is practiced. The required hours must have been completed during the period of validity of the certificate of registration as a nail technologist's apprentice issued to the person pursuant to section 14 of this act.***

Sec. 33. NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;
2. Is of good moral character;
3. Is a citizen of the United States or is lawfully entitled to remain and work in the United States;
4. Has successfully completed the 10th grade in school or its equivalent; and
5. Has ~~received a~~ ***had any one of the following:***
 - (a) A minimum of 900 hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology. ~~for who has practiced~~
 - (b) ***Practice*** as a full-time licensed aesthetician for at least 1 year.
 - (c) ***At least 1,800 hours of service as an aesthetician's apprentice in a licensed cosmetological establishment in which aesthetics is practiced. The required hours must have been completed during the period of validity of the certificate of registration as an aesthetician's apprentice issued to the person pursuant to section 12 of this act.***

Sec. 34. NRS 644.208 is hereby amended to read as follows:

644.208 1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:

- (a) Is not less than 18 years of age.
- (b) Is of good moral character.
- (c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.
- (d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful

completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has not practiced hair braiding previously:

(1) Has completed a minimum of 250 hours of training and education as follows:

(I) Fifty hours concerning the laws of Nevada and the regulations of the Board relating to cosmetology;

(II) Seventy-five hours concerning infection control *and prevention* and sanitation;

(III) Seventy-five hours regarding the health of the scalp and the skin of the human body; and

(IV) Fifty hours of clinical practice; and

(2) Has passed the practical demonstration in hair braiding and written tests described in NRS 644.248.

(f) If the person has practiced hair braiding in this State on a person who is related within the sixth degree of consanguinity without a license and without charging a fee:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year on such a relative; and

(2) Has passed the practical demonstration in hair braiding and written tests described in NRS 644.248.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are ~~{1 1/2 by 1 1/2}~~ **by 2** inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant; **or**

(3) The current passport issued to the applicant. ~~for~~

~~—(4) A voter registration card issued to the applicant pursuant to NRS 293.517.]~~

Sec. 35. NRS 644.209 is hereby amended to read as follows:

644.209 1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has practiced hair braiding in another state, has applied to the Board in proper form and paid a fee of \$200, and who:

(a) Is not less than 18 years of age.

(b) Is of good moral character.

(c) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has practiced hair braiding in another state in accordance with a license issued in that other state:

- (1) Has submitted to the Board proof of the license; and
- (2) Has passed the written tests described in NRS 644.248.

(f) If the person has practiced hair braiding in another state without a license and it is legal in that state to practice hair braiding without a license:

- (1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year; and
- (2) Has passed the practical demonstration in hair braiding and written tests described in NRS 644.248.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are ~~1 1/2 by 1 1/2~~ **by 2** inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant; **or**

(3) The current passport issued to the applicant. ~~for~~

~~(4) A voter registration card issued to the applicant pursuant to NRS 293.517.~~

Sec. 36. NRS 644.210 is hereby amended to read as follows:

644.210 1. An application for admission to examination or for a license in any branch of cosmetology, or for a certificate of registration as a ~~hair~~ ***shampoo technologist, aesthetician's apprentice, cosmetologist's apprentice, hair designer's apprentice or nail technologist's apprentice*** must be made in writing on forms furnished by the Board and must be submitted within the period designated by the Board. The Board shall charge a fee of \$15 for furnishing the forms.

2. An application must contain proof of the qualifications of the applicant for examination, ~~for~~ licensure ~~for~~ **or registration.** The application must be verified by the oath of the applicant.

Sec. 37. NRS 644.214 is hereby amended to read as follows:

644.214 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license or evidence of registration issued pursuant to NRS 644.190 to 644.330, inclusive, ***and sections 12 to 16, inclusive, of this act*** shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license or evidence of registration issued pursuant to NRS 644.190 to 644.330, inclusive, **and sections 12 to 16, inclusive, of this act** shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Board.

3. A license or evidence of registration may not be issued or renewed by the Board pursuant to NRS 644.190 to 644.330, inclusive, **and sections 12 to 16, inclusive, of this act** if the applicant:

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

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

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

Sec. 38. NRS 644.217 is hereby amended to read as follows:

644.217 1. The Board may issue a certificate of registration as a cosmetologist's apprentice to a person if:

(a) The person is required to travel more than 60 miles from his or her place of residence to attend a licensed school of cosmetology; and

(b) The training of the person as a cosmetologist's apprentice will be conducted at a licensed cosmetological establishment that is located 60 miles or more from a licensed school of cosmetology.

2. The Board may, for good cause shown, waive the requirements of subsection 1 for a particular applicant.

3. An applicant for a certificate of registration as a cosmetologist's apprentice must submit an application to the Board on a form prescribed by the Board. The application must be accompanied by a fee of \$100 and must include:

(a) A statement signed by the licensed cosmetologist who will be supervising and training the cosmetologist's apprentice which states that the licensed cosmetologist has been licensed by the Board to practice cosmetology in this State for not less than 3 years immediately preceding the date of the

application and that his or her license has been in good standing during that period;

(b) A statement signed by the owner of the licensed cosmetological establishment where the applicant will be trained which states that the owner will permit the applicant to be trained as a cosmetologist's apprentice at the cosmetological establishment; and

(c) Such other information as the Board may require by regulation.

4. A certificate of registration as a cosmetologist's apprentice is valid for ~~{2 years}~~ **24 months** after the date on which it is issued and may be renewed by the Board upon good cause shown.

Sec. 39. NRS 644.2175 is hereby amended to read as follows:

644.2175 1. A **holder of a certificate of registration as a cosmetologist's apprentice or apprentice of a single branch of cosmetology** shall display the certificate of registration issued to him or her by the Board or a duplicate of the certificate of registration in plain view of the public at the position where the ~~{cosmetologist's}~~ apprentice is being trained. ~~{The}~~

2. If the apprentice is:

(a) A cosmetologist's apprentice, **the cosmetologist's apprentice**, the licensed cosmetologist supervising and training the cosmetologist's apprentice, and the owner of the cosmetological establishment where the cosmetologist's apprentice is being trained shall not advertise or hold the cosmetologist's apprentice out as being a licensed cosmetologist, or use any title or abbreviation that would indicate that the cosmetologist's apprentice is a licensed cosmetologist.

~~{2.}~~ (b) **An apprentice of a single branch of cosmetology, the licensed cosmetologist, aesthetician, electrologist, hair designer or nail technologist supervising and training the apprentice, and the owner of the cosmetological establishment where the apprentice is being trained shall not advertise or hold the apprentice out as being a licensed cosmetologist, aesthetician, electrologist, hair designer or nail technologist or use any title or abbreviation that would indicate that the apprentice is a licensed cosmetologist, aesthetician, electrologist, hair designer or nail technologist.**

3. To receive credit for an apprenticeship ~~{a}~~ :

(a) A cosmetologist's apprentice must be regularly employed during his or her training by:

~~{(a)}~~ (1) The cosmetological establishment where the cosmetologist's apprentice is being trained; or

~~{(b)}~~ (2) If the cosmetologist's apprentice is being supervised and trained by a licensed cosmetologist who is leasing space in a cosmetological establishment, the licensed cosmetologist.

~~{3.}~~ (b) **An apprentice of a single branch of cosmetology must be regularly employed during his or her training by:**

(1) **The cosmetological establishment where the apprentice is being trained; or**

(2) If the apprentice is being supervised and trained by a licensed cosmetologist, aesthetician, electrologist, hair designer or nail technician who is leasing space in a cosmetological establishment, the licensed cosmetologist, aesthetician, electrologist, hair designer or nail technician.

4. Not more than one cosmetologist's apprentice **or apprentice of a single branch of cosmetology** may be employed at any time at a licensed cosmetological establishment.

~~{4.}~~ 5. A licensed ~~{cosmetologist}~~ :

(a) **Cosmetologist** who is supervising and training a cosmetologist's apprentice shall:

~~{(a)}~~ (1) Supervise all work done by the cosmetologist's apprentice; and

~~{(b)}~~ (2) Be in attendance at all times that the cosmetologist's apprentice is engaged in the practice of cosmetology.

~~{5.}~~ (b) **Cosmetologist, aesthetician, electrologist, hair designer or nail technician who is supervising and training an apprentice of a single branch of cosmetology shall:**

(1) *Supervise all work done by the apprentice; and*

(2) *Be in attendance at all times that the apprentice is engaged in the practice of the branch of cosmetology for which the apprentice holds a certificate of registration.*

6. A licensed ~~{cosmetologist}~~ :

(a) **Cosmetologist** who is supervising and training a cosmetologist's apprentice shall keep a daily record of the training that is provided to the cosmetologist's apprentice. The licensed cosmetologist shall:

~~{(a)}~~ (1) Keep the daily records at the cosmetological establishment where the cosmetologist's apprentice is being trained and, upon the request of the Board, make the daily records available to the Board; and

~~{(b)}~~ (2) Submit a copy of the records to the Board at such regular intervals as the Board may require by regulation.

~~{6.}~~ (b) **Cosmetologist, aesthetician, electrologist, hair designer or nail technician who is supervising and training an apprentice of a single branch of cosmetology shall keep a daily record of the training that is provided to the apprentice. The licensed cosmetologist, aesthetician, electrologist, hair designer or nail technician shall:**

(1) *Keep the daily records at the cosmetological establishment where the apprentice is being trained and, upon the request of the Board, make the daily records available to the Board; and*

(2) *Submit a copy of the records to the Board at such regular intervals as the Board may require by regulation.*

7. For the purposes of this chapter:

(a) A licensed cosmetologist is not required to obtain a license from the Board as an instructor to train a cosmetologist's apprentice pursuant to this section and NRS 644.217, and the licensed cosmetologist is not subject to regulation as an instructor because he or she provides such training.

(b) *A licensed cosmetologist, aesthetician, electrologist, hair designer or nail technologist is not required to obtain a license from the Board as an instructor to train an apprentice of a single branch of cosmetology pursuant to this section and NRS 644.215 or section 12, 13 or 14 of this act, and the licensed cosmetologist, aesthetician, electrologist, hair designer or nail technologist is not subject to regulation as an instructor because he or she provides such training.*

(c) A licensed cosmetological establishment which employs a cosmetologist's apprentice ***or apprentice of a single branch of cosmetology*** or at which a cosmetologist's apprentice ***or apprentice of a single branch of cosmetology*** is being trained is not subject to regulation as a school of cosmetology because the cosmetologist's apprentice ***or apprentice of a single branch of cosmetology*** is being trained at the cosmetological establishment.

~~{7.}~~ 8. The Board may adopt:

(a) Regulations relating to the qualifications of a licensed ~~{cosmetologist}~~;

(1) Cosmetologist to supervise and train a cosmetologist's apprentice; **and**

(2) Cosmetologist, aesthetician, electrologist, hair designer or nail technologist to supervise and train an apprentice of a single branch of cosmetology;

(b) Regulations relating to the procedures and subject matter that must be included in the training of a cosmetologist's apprentice ~~{}~~ ***or an apprentice of a single branch of cosmetology;***

(c) Regulations relating to the training of a cosmetologist's apprentice ***or apprentice of a single branch of cosmetology*** to verify the number of hours of training received by the cosmetologist's apprentice ~~{}~~ ***or apprentice of a single branch of cosmetology;*** and

(d) Such other regulations as the Board determines necessary to carry out the provisions of this section and NRS 644.215 and 644.217 ~~{}~~ ***and sections 12, 13 and 14 of this act.***

9. *As used in this section, "apprentice of a single branch of cosmetology" means a person engaged in learning the occupation of aesthetician, electrologist, hair designer or nail technologist.*

Sec. 40. NRS 644.220 is hereby amended to read as follows:

644.220 1. In addition to the fee for an application, the fees for examination are:

(a) For examination as a cosmetologist, not less than \$75 and not more than \$200.

(b) For examination as an electrologist, not less than \$75 and not more than \$200.

(c) For examination as a hair designer, not less than \$75 and not more than \$200.

(d) ***For examination as a shampoo technologist, not less than \$50 and not more than \$100.***

(e) For examination as a hair braider, \$110.

~~[(e)]~~ (f) For examination as a nail technologist, not less than \$75 and not more than \$200.

~~[(f)]~~ (g) For examination as an aesthetician, not less than \$75 and not more than \$200.

~~[(g)]~~ (h) For examination as an instructor of aestheticians, hair designers, cosmetology or nail technology, not less than \$75 and not more than \$200.

2. Except as otherwise provided in this subsection, the fee for each reexamination is not less than \$75 and not more than \$200. The fee for reexamination as a hair braider is \$110.

3. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is \$75.

4. Each applicant referred to in subsections 1 and 3 shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

Sec. 41. NRS 644.248 is hereby amended to read as follows:

644.248 1. The examination for licensure as a hair braider pursuant to paragraph (e) of subsection 1 of NRS 644.209 must include:

(a) A written test on antisepsis, sterilization and sanitation; ~~and~~

(b) A written test on the laws of Nevada and the regulations of the Board relating to cosmetology ~~{}; and~~

(c) ***Such other tests or examinations as the Board deems necessary.***

2. The examination for licensure as a hair braider pursuant to NRS 644.208 or paragraph (f) of subsection 1 of NRS 644.209 must include:

(a) The written tests ***and such other tests or examinations*** described in subsection 1; and

(b) A practical demonstration in hair braiding.

Sec. 42. NRS 644.260 is hereby amended to read as follows:

644.260 The Board shall issue a license ***or certificate of registration, as applicable,*** as a cosmetologist, aesthetician, electrologist, hair designer, ***shampoo technologist,*** hair braider, nail technologist, demonstrator of cosmetics or instructor to each applicant who:

1. ~~{}Passes~~ ***Except as otherwise provided in section 16 of this act, passes*** a satisfactory examination, conducted by the Board to determine his or her fitness to practice that occupation of cosmetology; and

2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license ~~{}or certificate of registration.~~

Sec. 43. NRS 644.300 is hereby amended to read as follows:

644.300 Every licensed ***or registered*** nail technologist, electrologist, aesthetician, hair designer, ***shampoo technologist,*** hair braider, demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his or her place of business ~~{}or personal mailing address,~~ as designated in the records of the Board, notify the ~~{}Secretary of the~~ Board of the new place of business ~~{}or personal mailing address.~~ Upon receipt of the notification, the ~~{}Secretary~~ ***Board*** shall make the necessary change in the records.

Sec. 44. NRS 644.315 is hereby amended to read as follows:

644.315 1. The Board may, without examination, issue a limited license to a person ~~{currently licensed as a cosmetologist in another state or territory of the United States or the District of Columbia}~~ who intends to practice cosmetology in this State in the ~~{limited}~~ manner set forth in this section ~~{-}~~ **and who is currently licensed as a cosmetologist, hair designer, nail technologist or aesthetician:**

(a) Pursuant to NRS 644.200, 644.204, 644.205 or 644.207, respectively;
or

(b) In another state or territory of the United States or the District of Columbia.

2. A limited license issued pursuant to this section authorizes the holder of the limited license to practice cosmetology in this State:

(a) ~~{-}~~ **Within the branch of cosmetology or branches of cosmetology for which the person is licensed in** a resort hotel and in other types of locations the Board designates by regulation; and

(b) For ~~{not}~~ :

(1) A 1-year period; or

(2) Not more than five periods, of not more than 10 days each, during any 1-year period for which the license is issued or renewed.

3. To apply for a limited license ~~{pursuant to this section,}~~ **for the period described in subparagraph (1) of paragraph (b) of subsection 2**, an applicant must submit to the Board:

(a) An application which includes the name of the applicant and the number ~~{or other designation identifying}~~ of the applicant's license ~~{from the other jurisdiction,}~~ **issued pursuant to NRS 644.200, 644.204, 644.205 or 644.207, respectively;**

(b) **Proof of successful completion of a course provided by the Board relating to sanitation and infection control when providing services relating to the practice of cosmetology in a location other than a cosmetological establishment;**

(c) Any other information required by the Board; and

~~{-}~~ (d) An application fee of \$100.

4. **To apply for a limited license for the period described in subparagraph (2) of paragraph (b) of subsection 2, an applicant must submit to the Board:**

(a) **An application which includes the name of the applicant and:**

(1) **The number of the applicant's license issued pursuant to NRS 644.200, 644.204, 644.205 or 644.207, respectively; or**

(2) **The number or other designation identifying the applicant's license from any other jurisdiction described in subsection 1;**

(b) **Any other information required by the Board; and**

(c) **An application fee of \$100.**

5. The Board may issue a limited license pursuant to this section for not more than 1 year and may renew the limited license annually. A limited license expires 1 year after its date of issuance.

~~{5.}~~ 6. A holder of a limited license may renew the limited license on or before the date of its expiration. To renew the limited license, the holder must:

- (a) Apply to the Board for renewal; and
- (b) Submit an annual renewal fee of \$100.

~~{6.}~~ 7. Not less than 5 days before practicing cosmetology in this State pursuant to a limited license, the holder of a limited license shall notify the Board **electronically or** in writing of the holder's intention to practice cosmetology in this State ~~{ }~~ **pursuant to the limited license**. The notice must specify:

- (a) The name and limited license number of the holder;
- (b) The specific dates **and times** on which the holder will be practicing cosmetology in this State ~~{ }~~ **pursuant to the limited license**; and
- (c) The name and address of the location at which the holder will be practicing cosmetology in this State ~~{ }~~ **pursuant to the limited license**.

8. **A holder of a limited license may submit to the Board the notice required by subsection 7 by using the Board's online notification process, by mail or in person.**

9. A holder of a limited license is subject to the regulatory and disciplinary authority of the Board to the same extent as any other licensed cosmetologist for all acts relating to the practice of cosmetology which occur in this State ~~{ }~~ **pursuant to the limited license**.

10. The Board:

- (a) Shall designate by regulation the types of ~~locations~~ **:**

(1) **Locations**, in addition to a resort hotel, at which a holder of a limited license may practice cosmetology in this State under a limited license ~~{ }~~ **; and**

(2) **Services relating to the practice of cosmetology that a holder of a limited license may perform in this State under a limited license.**

(b) May adopt any other regulations as are necessary to carry out the provisions of this section.

~~{9.}~~ 11. As used in this section, "resort hotel" has the meaning ascribed to it in NRS 463.01865.

Sec. 45. NRS 644.320 is hereby amended to read as follows:

644.320 1. The license **or certificate of registration, as applicable,** of every cosmetologist, aesthetician, electrologist, hair designer, **shampoo technologist**, hair braider, nail technologist, demonstrator of cosmetics and instructor expires ~~{ }~~

~~(a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.~~

~~(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.~~

~~2. The Board shall adopt regulations governing the proration of the fee required for initial licenses, other than initial licenses as a hair braider, issued for less than 1 1/2 years.~~

~~3. Except as otherwise provided in this section, the fee for an initial license as a hair braider is \$70.} on either:~~

~~(a) The second anniversary of the birthday of the licensee or holder of the certificate of registration measured, in the case of an original license ~~for~~ or certificate of registration, restored license ~~for~~ or certificate of registration, renewal of a license or certificate of registration or renewal of an expired license ~~for~~ or certificate of registration, from the birthday of the licensee or holder nearest the date of issuance, restoration or renewal; or~~

~~(b) The fourth anniversary of the birthday of the licensee or holder of the certificate of registration measured, in the case of an original license ~~for~~ or certificate of registration, restored license ~~for~~ or certificate of registration, renewal of a license or certificate of registration or renewal of an expired license ~~for~~ or certificate of registration from the birthday of the licensee or holder nearest the date of issuance, restoration or renewal.~~

~~2. The ~~fee~~ fees for issuance of an initial license or certificate of registration, as a hair braider issued by the Board for: is:~~

~~—(a)—At least a portion of 1 month but less than 6 months is \$17.50.~~

~~—(b)—Six months or more but less than 12 months is \$35.00.~~

~~—(c)—Twelve months or more but less than 18 months is \$52.50.} applicable, are:~~

~~(a) For nail technologists, electrologists, aestheticians, hair designers, shampoo technologists, demonstrators of cosmetics and cosmetologists:~~

~~(1) For 2 years, not less than \$50 and not more than \$100.~~

~~(2) For 4 years, not less than \$100 and not more than \$200.~~

~~(b) For hair braiders:~~

~~(1) For 2 years, \$70.~~

~~{(b)} (2) For 4 years, \$140.~~

~~(c) For instructors:~~

~~(1) For 2 years, not less than \$60 and not more than \$100.~~

~~(2) For 4 years, not less than \$120 and not more than \$200.~~

~~3. The Board may, by regulation, defer the expiration of a license or certificate of registration, as applicable, of a person who is on active duty in the Armed Forces of the United States upon such terms and conditions as it may prescribe. The Board may similarly defer the expiration of the license or certificate of registration, as applicable, of the spouse or dependent child of that person if the spouse or child is residing with the person.~~

~~4. For the purposes of this section, any licensee or holder of a certificate of registration whose date of birth occurs on February 29 in a leap year shall be deemed to have a birthdate of February 28.~~

Sec. 46. NRS 644.325 is hereby amended to read as follows:

644.325 1. An application for renewal of any license or certificate of registration issued pursuant to this chapter must be:

- (a) Made on a form prescribed and furnished by the Board;
- (b) Made on or before the date for renewal specified by the Board;
- (c) Accompanied by the **applicable** fee for renewal; and
- (d) Accompanied by all information required to complete the renewal.

2. The fees for renewal **of a license or a certificate of registration, as applicable,** are:

(a) For nail technologists, electrologists, aestheticians, hair designers, **shampoo technologists**, demonstrators of cosmetics and cosmetologists ~~§~~ :

- (1) **For 2 years**, not less than \$50 and not more than \$100.
- (2) **For 4 years, not less than \$100 and not more than \$200.**

(b) For hair braiders ~~§~~ :

- (1) **For 2 years**, \$70.
- (2) **For 4 years, \$140.**

(c) For instructors ~~§~~ :

- (1) **For 2 years**, not less than \$60 and not more than \$100.
- (2) **For 4 years, not less than \$120 and not more than \$200.**

(d) For cosmetological establishments ~~§~~ :

- (1) **For 2 years**, not less than \$100 and not more than \$200.
- (2) **For 4 years, not less than \$200 and not more than \$400.**

(e) For establishments for hair braiding ~~§~~ :

- (1) **For 2 years**, \$70.
- (2) **For 4 years, \$140.**

(f) For schools of cosmetology ~~§~~ :

- (1) **For 2 years**, not less than \$500 and not more than \$800.
- (2) **For 4 years, not less than \$1,000 and not more than \$1,600.**

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license **or a certificate of registration as a shampoo technologist** is not renewed, there must be assessed and collected at the time of renewal a penalty of \$50 for a school of cosmetology and \$20 for an establishment for hair braiding, a cosmetological establishment, ~~and~~ all persons licensed pursuant to this chapter ~~§~~ **and persons registered as a shampoo technologist.**

4. An application for the renewal of a license **or a certificate of registration, as applicable,** as a cosmetologist, hair designer, **shampoo technologist**, hair braider, aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be ~~accompanied~~ :

(a) **Accompanied** by two current photographs of the applicant which are ~~1 1/2 by 1 1/2~~ **2 by 2** inches ~~[- The name and address]~~ **and have the name** of the applicant ~~must be~~ written on the back of each photograph ~~§~~ ; **or**

(b) **If the application for the renewal of the license or certificate of registration, as applicable, is made online, accompanied by a current photograph of the applicant which is 2 by 2 inches and is electronically attached to the application for renewal.**

5. Before a person applies for the renewal of a license ~~on or after January 1, 2011,~~ **or certificate of registration, as applicable,** as a cosmetologist, hair

designer, **shampoo technologist**, hair braider, aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control **and prevention** in a professional course or seminar approved by the Board.

Sec. 47. NRS 644.330 is hereby amended to read as follows:

644.330 1. A nail technologist, electrologist, aesthetician, hair designer, **shampoo technologist**, hair braider, cosmetologist, demonstrator of cosmetics or instructor whose license or certificate of registration, as applicable, has expired may have his or her license or certificate of registration renewed only upon payment of all **applicable** required fees and submission of all information required to complete the renewal.

2. Any nail technologist, electrologist, aesthetician, hair designer, **shampoo technologist**, hair braider, cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his or her license or certificate of registration, as applicable, restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No nail technologist, electrologist, aesthetician, hair designer, **shampoo technologist**, hair braider, cosmetologist, demonstrator of cosmetics or instructor who has retired from practice for more than 4 years may have his or her license or certificate of registration, as applicable, restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

Sec. 48. NRS 644.331 is hereby amended to read as follows:

644.331 1. Each natural person who engages in the practice of threading and each owner or operator of a kiosk or other stand-alone facility in which a natural person engages in the practice of threading shall, on or before January 1 of each year, register with the Board on a form prescribed by the Board. The registration must **be accompanied by a fee of not more than \$25 and must** include:

(a) The name, address, **electronic mail address** and telephone number of the person, owner or operator; and

(b) Any other information relating to the practice of the person or the operation of the kiosk or other facility required by the Board. ~~{The Board shall not charge a fee for registering a person, owner or operator pursuant to this subsection.}~~

2. The Board ~~{may,}~~ **shall**, during regular business hours, inspect ~~{any}~~ **each** facility in this State in which threading is conducted ~~{,}~~ **not later than 90 days after the date on which the registration is activated.**

3. **The fee required by subsection 1 must be established by regulation of the Board.**

Sec. 49. NRS 644.340 is hereby amended to read as follows:

644.340 1. Any person wishing to operate a cosmetological establishment in which any one or a combination of the occupations of cosmetology are practiced must apply to the Board for a license, through the

owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain a detailed floor plan of the proposed cosmetological establishment and proof of the particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker.

2. The applicant must submit the application accompanied by the **applicable** required fees for inspection and licensing. After the applicant has submitted the application, the applicant must contact the Board and request a verbal review concerning the application to determine if the cosmetological establishment complies with the requirements of this chapter and the regulations adopted by the Board. If, based on the verbal review, the Board determines that the cosmetological establishment meets those requirements, the Board shall issue to the applicant the required license. Upon receipt of the license, the applicant must contact the Board to request the activation of the license. A license issued pursuant to this subsection is not valid until it is activated. The Board shall conduct an on-site inspection of the cosmetological establishment not later than 90 days after the date on which the license is activated.

3. The fee for **issuance of** a license for a cosmetological establishment is :

(a) For 2 years, \$200.

(b) For 4 years, \$400.

4. The fee for the initial inspection is \$15. If an additional inspection is necessary, the fee is \$25.

Sec. 50. NRS 644.345 is hereby amended to read as follows:

644.345 1. The Board must be notified of any change of ownership, name, services offered or location of a cosmetological establishment. The establishment may not be operated after the change until a new license is issued. The owner of the establishment must apply to the Board for the license and pay the **applicable** fees established ~~[pursuant to subsection]~~ **by subsections 3 and 4** of NRS 644.340.

2. After a license has been issued for the operation of a cosmetological establishment, any changes in the physical structure of the establishment must be approved by the Board.

Sec. 51. NRS 644.350 is hereby amended to read as follows:

644.350 1. The license of every cosmetological establishment ~~[expires]~~ :

(a) Expires 2 years after the date of issuance or renewal of ~~the~~ a license ~~[.]~~ that was issued or renewed for a 2-year period.

(b) Expires 4 years after the date of issuance or renewal of a license that was issued or renewed for a 4-year period.

2. If a cosmetological establishment fails to pay the **applicable** required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

Sec. 52. NRS 644.360 is hereby amended to read as follows:

644.360 1. Every holder of a license issued by the Board to operate a cosmetological establishment shall display the license or a duplicate of the

license in plain view of members of the general public in the principal office or place of business of the holder.

2. Except as otherwise provided in this section, the operator of a cosmetological establishment may lease space to or employ only licensed or registered, as applicable, nail technologists, electrologists, aestheticians, hair designers, **shampoo technologists, hair braiders**, demonstrators of cosmetics and cosmetologists at the establishment to provide ~~cosmetological~~ services **relating to the practice of cosmetology**. This subsection does not prohibit an operator of a cosmetological establishment from:

(a) Leasing space to or employing a barber. Such a barber remains under the jurisdiction of the State Barbers' Health and Sanitation Board and remains subject to the laws and regulations of this State applicable to his or her business or profession.

(b) Leasing space to any other professional, including, without limitation, a provider of health care pursuant to subsection 3. Each such professional remains under the jurisdiction of the regulatory body which governs his or her business or profession and remains subject to the laws and regulations of this State applicable to such business or profession.

3. The operator of a cosmetological establishment may lease space at the cosmetological establishment to a provider of health care for the purpose of providing health care within the scope of his or her practice. The provider of health care shall not use the leased space to provide such health care at the same time a cosmetologist uses that space to engage in the practice of cosmetology. A provider of health care who leases space at a cosmetological establishment pursuant to this subsection remains under the jurisdiction of the regulatory body which governs his or her business or profession and remains subject to the laws and regulations of this State applicable to such business or profession.

4. As used in this section:

(a) "Provider of health care" means a person who is licensed, certified or otherwise authorized by the law of this State to administer health care in the ordinary course of business or practice of a profession.

(b) "Space" includes, without limitation, a separate room in the cosmetological establishment.

Sec. 53. NRS 644.365 is hereby amended to read as follows:

644.365 Cosmetology **and threading** may be practiced in a cosmetological establishment by licensed or registered, as applicable, cosmetologists , **aestheticians, electrologists, hair designers, shampoo technologists, hair braiders, demonstrators of cosmetics, nail technologists and natural persons who engage in the practice of threading, as appropriate**, who are:

1. Employees of the owner of the enterprise; or
2. Lessees of space from the owner of the enterprise.

Sec. 54. NRS 644.370 is hereby amended to read as follows:

644.370 **1.** A cosmetological establishment must, at all times, be under the immediate supervision of a ~~licensed nail technician, electrologist, aesthetician, hair designer or cosmetologist.~~ **person who is licensed in the branch of cosmetology or a combination of branches of cosmetology of any service relating to the practice of cosmetology provided at the cosmetological establishment at the time the service is provided.**

2. If the operator of a cosmetological establishment leases space to a licensed or registered, as applicable, nail technician, electrologist, aesthetician, hair designer, shampoo technician, hair braider, demonstrator of cosmetics or cosmetologist pursuant to NRS 644.360, the lessee must provide supervision for that branch of cosmetology in the manner required by subsection 1.

Sec. 55. NRS 644.377 is hereby amended to read as follows:

644.377 **1.** Any person wishing to operate an establishment for hair braiding must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain a detailed floor plan of the proposed establishment for hair braiding and proof of any particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker.

2. The applicant must submit the application accompanied by the required fees for inspection and licensing. After the applicant has submitted the application, the applicant must contact the Board and request a verbal review concerning the application to determine if the establishment for hair braiding complies with the requirements of this chapter and any regulations adopted by the Board. If, based on the verbal review, the Board determines that the establishment for hair braiding meets those requirements, the Board shall issue to the applicant the required license. Upon receipt of the license, the applicant must contact the Board to request the activation of the license. A license issued pursuant to this subsection is not valid until it is activated. The Board shall conduct an on-site inspection of the establishment for hair braiding not later than 90 days after the date on which the license is activated.

3. The fee for **issuance of** a license for an establishment for hair braiding is :

(a) For 2 years, \$200.

(b) For 4 years, \$400.

4. The fee for the initial inspection is \$15. If an additional inspection is necessary, the fee is \$25.

Sec. 56. NRS 644.3772 is hereby amended to read as follows:

644.3772 **1.** The Board must be notified of any change of ownership, name, services offered or location of an establishment for hair braiding. The establishment may not be operated after the change until a new license is issued. The owner of the establishment must apply to the Board for the license and pay the **applicable** fees established pursuant to ~~subsection~~ **subsections 3 and 4** of NRS 644.377.

2. After a license has been issued for the operation of an establishment for hair braiding, any changes in the physical structure of the establishment must be approved by the Board.

Sec. 57. NRS 644.3773 is hereby amended to read as follows:

644.3773 1. The license of an establishment for hair braiding ~~expires~~ :

(a) ***Expires*** 2 years after the date of issuance or renewal of ~~the~~ a license ~~that was issued or renewed for a 2-year period.~~

(b) ***Expires 4 years after the date of issuance or renewal of a license that was issued or renewed for a 4-year period.***

2. If the owner of an establishment for hair braiding fails to pay the ***applicable*** required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

Sec. 58. NRS 644.380 is hereby amended to read as follows:

644.380 1. Any person desiring to conduct a school of cosmetology in which any one or any combination of the occupations of cosmetology are taught must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain proof of the particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker. The forms must be accompanied by:

(a) A detailed floor plan of the proposed school;

(b) The name, address and number of the license of the manager or person in charge and of each instructor;

(c) Evidence of financial ability to provide the facilities and equipment required by regulations of the Board and to maintain the operation of the proposed school for 1 year;

(d) Proof that the proposed school will commence operation with an enrollment of ~~not less than 25 bona fide students;~~ ***a number of students acceptable to the Board;***

(e) The ~~annual~~ ***applicable*** fee for a license;

(f) A copy of the contract for the enrollment of a student in a program at the school of cosmetology; and

(g) The name and address of the person designated to accept service of process.

2. Upon receipt by the Board of the application, the Board shall, before issuing a license, determine whether the proposed school:

(a) Is suitably located.

(b) Contains ~~at least 5,000 square feet of~~ ***adequate*** floor space and adequate equipment.

(c) Has a contract for the enrollment of a student in a program at the school of cosmetology that is approved by the Board.

(d) Admits as regular students only persons who have received a certificate of graduation from high school, or the recognized equivalent of such a certificate, or who are beyond the age of compulsory school attendance.

(e) Meets all requirements established by regulations of the Board.

3. The ~~annual~~ fee for **issuance of** a license for a school of cosmetology is :

(a) **For 2 years**, not less than \$500 and not more than \$800.

(b) **For 4 years, not less than \$1,000 and not more than \$1,600.**

4. If the proposed school meets all requirements established by this chapter and the regulations adopted pursuant thereto, the Board shall issue a license to the proposed school. The license must contain:

(a) The name of the proposed school;

(b) A statement that the proposed school is authorized to operate educational programs beyond secondary education; and

(c) Such other information as the Board considers necessary.

5. If the ownership of the school changes or the school moves to a new location, the school may not be operated until a new license is issued by the Board.

6. **The Board shall, by regulation, prescribe:**

(a) **The minimum enrollment of students required by paragraph (d) of subsection 1; and**

(b) **The amount of floor space required by paragraph (b) of subsection 2.**

7. After a license has been issued for the operation of a school of cosmetology, the licensee must obtain the approval of the Board before making any changes in the physical structure of the school.

Sec. 59. NRS 644.400 is hereby amended to read as follows:

644.400 1. A school of cosmetology must at all times be under the immediate supervision of a licensed instructor who has had practical experience ~~for~~ **in an established place of business for** at least 1 year in the practice of a majority of the branches of cosmetology ~~in an established place of business.~~ **taught at the school of cosmetology.**

2. A school of cosmetology shall:

(a) ~~maintain a school term of not less than 1,800 hours extending over a period of not more than 36 months, and maintain a course~~ **Except as otherwise provided in subsection 6, maintain courses** of practical training and technical instruction equal to the requirements for examination for a license ~~as a cosmetologist.~~ **or certificate of registration in each branch of cosmetology taught at the school of cosmetology.**

(b) Maintain apparatus and equipment sufficient to teach all the subjects of its curriculum.

(c) Keep a daily record of the attendance of each student, a record devoted to the different practices, establish grades and hold examinations before issuing diplomas. These records must be submitted to the Board pursuant to its regulations.

(d) Include in its curriculum a course of deportment consisting of instruction in courtesy, neatness and professional attitude in meeting the public.

(e) Arrange the courses devoted to each branch or practice of cosmetology as the Board may from time to time adopt as the course to be followed by the schools.

(f) Not allow any student to perform services on the public for more than 7 hours in any day.

(g) Conduct at least 5 hours of instruction in theory in each 40-hour week or 6 hours of instruction in theory in each 48-hour week, which must be attended by all registered students.

(h) Require that all work by students be done on the basis of rotation.

3. Except as otherwise provided in subsection 4, the Board may, upon request, authorize a school of cosmetology to offer, in addition to courses which are included in any curriculum required for licensure ~~for a cosmetologist,~~ **or registration in each branch of cosmetology taught at the school of cosmetology,** any other course.

4. The Board shall, upon request, authorize a school of cosmetology to offer a course or program that is designed, intended or used to prepare or qualify another person for licensure in the field of massage therapy if:

(a) The school of cosmetology has obtained all licenses, authorizations and approvals required by state and local law to offer such a course or program; and

(b) With regard to that portion of the premises where the school of cosmetology offers courses included in the cosmetological curriculum, the school of cosmetology continues to comply with the provisions of this chapter and any regulations adopted pursuant thereto.

5. Notwithstanding any other provision of law, if a school of cosmetology offers a course or program that is designed, intended or used to prepare or qualify another person for licensure in the field of massage therapy:

(a) The Board has exclusive jurisdiction over the authorization and regulation of the course or program offered by the school of cosmetology; and

(b) The school of cosmetology is not required to obtain any other license, authorization or approval to offer the course or program.

6. A school of cosmetology is not required to maintain courses of practical training and technical instruction equal to the requirements for examination for a license or certificate of registration in any branch of cosmetology if the school of cosmetology provides its students with a disclaimer, in at least 14-point bold type, indicating that completion of the instruction provided at the school of cosmetology does not:

(a) Qualify the student for a license or certificate of registration in any branch of cosmetology; or

(b) Prepare the student for an examination in any branch of cosmetology.

Sec. 60. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of an establishment for hair braiding, a cosmetological establishment, a licensed **or registered, as applicable**

aesthetician, cosmetologist, hair designer, **shampoo technologist**, hair braider, electrologist, instructor, nail technologist, demonstrator of cosmetics or school of cosmetology ~~or a cosmetologist's apprentice~~ to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) ***Failure of a cosmetologist's apprentice, electrologist's apprentice, aesthetician's apprentice, hair designer's apprentice or nail technologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.***

(c) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

~~[(e)]~~ (d) Gross malpractice.

~~[(d)]~~ (e) Continued practice by a person knowingly having an infectious or contagious disease.

~~[(e)]~~ (f) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

~~[(f)]~~ ~~Advertisement by means of knowingly false or deceptive statements.~~

(g) ***Advertising in violation of any of the provisions of section 17 of this act.***

(h) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

~~[(h)]~~ (i) Failure to display the license or a duplicate of the license as provided in NRS 644.290, 644.360, 644.3774 and 644.410.

~~[(i)]~~ (j) ***Failure to display the certificate of registration or a duplicate of the certificate of registration as provided in NRS 644.2175.***

(k) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

~~[(j)]~~ (l) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

~~[(k)]~~ (m) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license ~~[(j)]~~ **or registration;**

(b) Revoke or suspend a license ~~[(j)]~~ **or registration;**

(c) Place the licensee **or holder of a certificate of registration** on probation for a specified period;

(d) Impose a fine not to exceed \$2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 61. NRS 644.435 is hereby amended to read as follows:

644.435 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been issued a license or been registered pursuant to NRS 644.190 to 644.330, inclusive, **and sections 12 to 16, inclusive, of this act**, the Board shall deem the license or registration issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the license or registration stating that the holder of the license or registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license or registration issued pursuant to NRS 644.190 to 644.330, inclusive, **and sections 12 to 16, inclusive, of this act** that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license or registration was suspended stating that the person whose license or registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 62. NRS 644.460 is hereby amended to read as follows:

644.460 1. The following persons are exempt from the provisions of this chapter:

(a) All persons authorized by the laws of this State to practice medicine, dentistry, osteopathic medicine, chiropractic or podiatry.

(b) Commissioned medical officers of the United States Army, Navy, or Marine Hospital Service when engaged in the actual performance of their official duties, and attendants attached to those services.

(c) Barbers, insofar as their usual and ordinary vocation and profession is concerned, when engaged in any of the following practices:

(1) Cleansing or singeing the hair of any person.

(2) Massaging, cleansing, stimulating, exercising or similar work upon the scalp, face or neck of any person, with the hands or with mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(d) Retailers, at a retail establishment, insofar as their usual and ordinary vocation and profession is concerned, when engaged in the demonstration of cosmetics if:

(1) The demonstration is without charge to the person to whom the demonstration is given; and

(2) The retailer does not advertise or provide a ~~cosmetological~~ service **relating to the practice of cosmetology** except cosmetics and fragrances.

(e) Photographers or their employees, insofar as their usual and ordinary vocation and profession is concerned, if the photographer or his or her

employee does not advertise cosmetological services and provides cosmetics without charge to the customer.

2. Any school of cosmetology conducted as part of the vocational rehabilitation training program of the Department of Corrections or the Caliente Youth Center:

(a) Is exempt from the requirements of paragraph (c) of subsection 2 of NRS 644.400.

(b) Notwithstanding the provisions of NRS 644.395, shall maintain a staff of at least one licensed instructor.

Sec. 63. NRS 644.472 is hereby amended to read as follows:

644.472 1. Except as otherwise provided in subsection 2, it is unlawful for any animal to be on the premises of a licensed establishment for hair braiding or cosmetological establishment.

2. ***The provisions of subsection 1 do not apply to:***

(a) An aquarium ~~may be~~ maintained on the premises of a licensed establishment for hair braiding or cosmetological establishment ~~it~~; or

(b) ***A service animal or service animal in training.***

3. ***As used in this section:***

(a) ***“Service animal” includes only a dog that has been trained and meets the qualifications set forth in 28 C.F.R. § 36.104, and a miniature horse that has been trained and meets the qualifications set forth in 28 C.F.R. § 36.302.***

(b) ***“Service animal in training” includes only a dog or miniature horse that is being trained for the purposes of 28 C.F.R. § 36.104 or 36.302, as applicable.***

Sec. 64. NRS 651.075 is hereby amended to read as follows:

651.075 1. ~~It~~ ***Except as otherwise provided in NRS 644.472, it*** is unlawful for a place of public accommodation to:

(a) Refuse admittance or service to a person with a disability because the person is accompanied by a service animal.

(b) Refuse admittance or service to a person training a service animal.

(c) Refuse to permit an employee of the place of public accommodation who is training a service animal to bring the service animal into:

(1) The place of public accommodation; or

(2) Any area within the place of public accommodation to which employees of the place of public accommodation have access, regardless of whether the area is open to the public.

(d) Refuse admittance or service to a person because the person is accompanied by a police dog.

(e) Charge an additional fee or deposit for a service animal, service animal in training or a police dog as a condition of access to the place of public accommodation.

(f) Require proof that an animal is a service animal or service animal in training.

2. A place of public accommodation may:

(a) Ask a person accompanied by an animal:

(1) If the animal is a service animal or service animal in training; and
(2) What tasks the animal is trained to perform or is being trained to perform.

(b) Ask a person to remove a service animal or service animal in training if the animal:

(1) Is out of control and the person accompanying the animal fails to take effective action to control it; or

(2) Poses a direct threat to the health or safety of others.

3. A service animal may not be presumed dangerous by reason of the fact it is not muzzled.

4. This section does not relieve:

(a) A person with a disability who is accompanied by a service animal or a person who trains a service animal from liability for damage caused by the service animal.

(b) A person who is accompanied by a police dog from liability for damage caused by the police dog.

5. Persons with disabilities who are accompanied by service animals are subject to the same conditions and limitations that apply to persons who are not so disabled and accompanied.

6. Persons who are accompanied by police dogs are subject to the same conditions and limitations that apply to persons who are not so accompanied.

7. A person who violates paragraph (e) of subsection 1 is civilly liable to the person against whom the violation was committed for:

(a) Actual damages;

(b) Such punitive damages as may be determined by a jury, or by a court sitting without a jury, which must not be more than three times the amount of actual damages, except that in no case may the punitive damages be less than \$750; and

(c) Reasonable attorney's fees as determined by the court.

8. The remedies provided in this section are nonexclusive and are in addition to any other remedy provided by law, including, without limitation, any action for injunctive or other equitable relief available to the aggrieved person or brought in the name of the people of this State or the United States.

9. As used in this section:

(a) "Police dog" means a dog which is owned by a state or local governmental agency and which is used by a peace officer in performing his or her duties as a peace officer.

(b) "Service animal" has the meaning ascribed to it in NRS 426.097.

(c) "Service animal in training" has the meaning ascribed to it in NRS 426.099.

Sec. 65. This act becomes effective:

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

2. On October 1, 2015, for all other purposes.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 253.

Bill read second time.

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

Amendment No. 397.

SUMMARY—~~[Requires proof of identity for voting.]~~ Revises provisions governing the administration of elections. (BDR 24-1125)

AN ACT relating to elections; ~~requiring, with limited exceptions, proof of identity for voting in person; requiring the Department of Motor Vehicles, under certain circumstances, to issue voter identification cards at no cost; providing for photographs of voters to be included in election board registers and rosters for early voting; requiring county clerks and city clerks to provide certain equipment relating to such photographs to election board officers and to deputy clerks for early voting; requiring the Department of Motor Vehicles to provide digital colored photographs of registered voters to the Secretary of State or a county clerk upon request; revising provisions relating to the identification of a registered voter who is unable to sign his or her name; prohibiting the inclusion of certain information in a list of registered voters made available to the public; requiring county clerks to create electronic election board registers; making various other changes relating to elections;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires, under certain circumstances, that a person provide satisfactory identification to vote in person. (NRS 293.2725, 293.277, 293.303, 293.3081, 293.3082, 293.3085, 293.330, 293.353, 293.3585, 293.541, 293C.270, 293C.292, 293C.330, 293C.3585) This bill requires, with limited exceptions, that a person provide one of the forms of proof of identity specified in section 2 of this bill to vote in person. Section 2 sets forth the acceptable forms of proof of identity which are: (1) certain government issued documents or identity cards that show a recognizable photograph of the person to whom the document or card is issued; (2) a voter identification card; or (3) certain documentation from an administrator of certain health care facilities that are licensed by the State.~~

~~Sections 3-6 of this bill: (1) require the Department of Motor Vehicles to issue a voter identification card, free of charge, to a person who does not possess one of the forms of required photographic identification; (2) set forth requirements for the issuance of voter identification cards; and (3) require that the Secretary of State adopt regulations to carry out the provisions of those sections.~~

~~Section 16 of this bill authorizes, under certain circumstances, a person who fails to provide proof of identity when voting in person to cast a provisional ballot. Section 18 of this bill provides that the provisional ballot of such a voter must be counted if the person provides to the county or city clerk not later than 5 p.m. on the Friday following the election: (1) proof of identity; or (2) an affidavit stating that the voter cannot provide proof of identity because he or she is indigent or has a religious objection to being photographed.~~

~~The provisions of this bill which require that a person present, with limited exceptions, one of the forms of proof of identity to vote in person are similar to the provisions of an Indiana law which the United States Supreme Court has determined does not unconstitutionally burden a person's right to vote, in part because the person can obtain one of the forms of required proof of identity free of charge and the requirements to provide proof of identity do not apply to persons who vote by absent ballot. (*Crawford v. Marion County Election Bd.*, 553 U.S. 181 (2008))~~

Sections 44, 46, 53 and 54 of this bill provide for photographs of voters to be included in rosters for early voting and election board registers under certain circumstances. Section 40 of this bill requires the Secretary of State to adopt regulations setting forth the procedures for obtaining photographs of registered voters that are required under certain circumstances to be included in rosters for early voting and election board registers, and section 39 of this bill requires the Department of Motor Vehicles to provide such photographs to the Secretary of State or county clerks upon request.

Sections 41, 44, 50 and 53 of this bill require the election board officer or deputy clerk for early voting, as applicable, to compare the photograph included in the election board register or roster for early voting, if any, to the appearance of the person applying to vote. If the election board officer or deputy clerk for early voting: (1) believes that the person in the photograph is the person applying to vote, the election board officer or deputy clerk for early voting shall allow the person to vote; or (2) does not believe that the person in the photograph is the person applying to vote, the election board officer or deputy clerk for early voting shall allow the person to vote if the person provides a written affirmation signed under penalty of perjury that he or she is the registered voter who he or she claims to be. If the election board register or roster for early voting does not contain a photograph next to the person's name, the election board officer or deputy clerk for early voting shall request that the person authorize the election board officer or deputy clerk for early voting to take a photograph of the person or provide to the election board officer or deputy clerk for early voting his or her driver's license number or identification card number, if any. If, in response to such a request, the person: (1) provides his or her driver's license number or identification card number, the election board officer or deputy clerk for early voting shall record the number in the election board register or roster for early

voting and allow the person to vote; (2) authorizes the election board officer or deputy clerk for early voting to take the person's photograph. the election board officer or deputy clerk for early voting shall take the photograph and allow the person to vote; or (3) declines to comply with the request, the election board officer or deputy clerk for early voting shall allow the person to vote if the person provides a written affirmation signed under penalty of perjury that he or she is the registered voter who he or she claims to be.

Sections 37, 38, 48 and 49 of this bill require county clerks and city clerks to provide election board officers and deputy clerks for early voting with the equipment necessary to take digital colored photographs of voters.

Sections 43 and 52 of this bill prohibit a voter from being challenged on the basis that: (1) the voter declines to comply with a request to provide his or her driver's license number or identification card number at the time he or she appears to vote in person; (2) the voter does not have a driver's license or identification card; (3) the election board register or roster for early voting does not contain a photograph of the voter; (4) the voter declines to comply with a request that he or she authorize an election board officer or deputy clerk for early voting to take his or her photograph; or (5) an election board officer or a deputy clerk for early voting does not believe that the person applying to vote is the same person in the photograph contained in the election board register or roster for early voting.

Sections 42 and 51 of this bill make various changes to provisions governing the identification of a voter who is unable to sign his or her name.

Section 45 of this bill prohibits certain information about a registered voter, including a photograph, from being included on any list of registered voters made available to the public.

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

Section 1. ~~{Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.}~~ (Deleted by amendment.)

Sec. 2. ~~{1. "Proof of identity" means:~~

~~(a) A document or identity card that:~~

~~(1) Is issued by the State, the United States or a federally recognized Indian tribe;~~

~~(2) Shows a recognizable photograph of the person to whom the document or identity card is issued;~~

~~(3) Shows the name and signature of the person to whom the document or identity card is issued; and~~

~~(4) If the document or identity card is issued by the State, bears an expiration date that is not earlier than 4 years before the date of the election for which the document or identity card is offered as proof of identity;~~

~~(b) A voter identification card issued pursuant to section 3 of this act; or~~

~~(c) A document provided by the administrator of a licensed medical facility or licensed facility for the dependent to a resident of the facility attesting to the person's identity and that he or she is a resident of the facility.~~

~~2. As used in this section:~~

~~(a) "Facility for the dependent" has the meaning ascribed to it in NRS 449.0045.~~

~~(b) "Medical facility" has the meaning ascribed to it in NRS 449.0151.~~

~~(Deleted by amendment.)~~

Sec. 3. ~~{1. The Department of Motor Vehicles shall:~~

~~(a) Issue a voter identification card to a person who:~~

~~(1) Is registered to vote in this State;~~

~~(2) Does not possess a form of proof of identity described in subsection 1 of section 2 of this act; and~~

~~(3) Complies with the provisions of section 4 of this act.~~

~~(b) Provide at least one place in each county at which the Department accepts applications for and issues voter identification cards.~~

~~2. The Department shall not charge a fee for the issuance of a voter identification card.} (Deleted by amendment.)~~

Sec. 4. ~~{A person who wishes to obtain a voter identification card must submit to the Department of Motor Vehicles:~~

~~1. An application in the form prescribed by the Secretary of State;~~

~~2. Proof of the applicant's date of birth; and~~

~~3. A copy of a current utility bill, bank statement, paycheck or check or other document issued by a governmental entity which indicates the name and address of the applicant, but not including a voter registration card issued pursuant to NRS 293.517.} (Deleted by amendment.)~~

Sec. 5. ~~{A voter identification card issued pursuant to section 3 of this act:~~

~~1. Must include, without limitation:~~

~~(a) The name, address, date of birth, sex, height, weight, eye color, photograph and signature of the person to whom the card is issued;~~

~~(b) The date of issuance of the card;~~

~~(c) The name of the county in which the card was issued; and~~

~~(d) Any other information required by the regulations of the Secretary of State.~~

~~2. Is valid for as long as the person is registered to vote and resides at the address stated on the card.} (Deleted by amendment.)~~

Sec. 6. ~~{The Secretary of State shall adopt regulations to carry out the provisions of sections 3 to 6, inclusive, of this act. In adopting such regulations, the Secretary of State shall consult with the Department of Motor Vehicles.} (Deleted by amendment.)~~

Sec. 7. ~~{NRS 293.010 is hereby amended to read as follows:~~
~~293.010 As used in this title, unless the context otherwise requires, the~~
~~words and terms defined in NRS 293.013 to 293.121, inclusive, and section 2~~
~~of this act have the meanings ascribed to them in those sections.}~~ **(Deleted by**
amendment.)

Sec. 8. ~~{NRS 293.177 is hereby amended to read as follows:~~
~~293.177 1. Except as otherwise provided in NRS 293.165, a name may~~
~~not be printed on a ballot to be used at a primary election unless the person~~
~~named has filed a declaration of candidacy or an acceptance of candidacy, and~~
~~has paid the fee required by NRS 293.193 not earlier than:~~
~~(a) For a candidate for judicial office, the first Monday in January of the~~
~~year in which the election is to be held nor later than 5 p.m. on the second~~
~~Friday after the first Monday in January; and~~
~~(b) For all other candidates, the first Monday in March of the year in which~~
~~the election is to be held nor later than 5 p.m. on the second Friday after the~~
~~first Monday in March.~~
~~2. A declaration of candidacy or an acceptance of candidacy required to~~
~~be filed by this section must be in substantially the following form:~~
~~(a) For partisan office:~~

~~DECLARATION OF CANDIDACY OF FOR THE~~
~~OFFICE OF~~

State of Nevada

County of

~~For the purpose of having my name placed on the official ballot as a~~
~~candidate for the Party nomination for the office of, I,~~
~~the undersigned, do swear or affirm under penalty of perjury that I~~
~~actually, as opposed to constructively, reside at, in the City or~~
~~Town of, County of, State of Nevada; that my actual, as~~
~~opposed to constructive, residence in the State, district, county, township,~~
~~city or other area prescribed by law to which the office pertains began on~~
~~a date at least 30 days immediately preceding the date of the close of filing~~
~~of declarations of candidacy for this office; that my telephone number is~~
~~....., and the address at which I receive mail, if different than my~~
~~residence, is~~
~~; that I am registered as a member of the Party; that I am a qualified elector pursuant to Section 1 of Article 2 of~~
~~the Constitution of the State of Nevada; that if I have ever been convicted~~
~~of treason or a felony, my civil rights have been restored by a court of~~
~~competent jurisdiction; that I have not, in violation of the provisions of~~
~~NRS 293.176, changed the designation of my political party or political~~
~~party affiliation on an official application to register to vote in any state~~
~~since December 31 before the closing filing date for this election; that I~~
~~generally believe in and intend to support the concepts found in the~~

~~For the purpose of having my name placed on the official ballot as a candidate for the office of _____, I, the undersigned _____, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at _____, in the City or Town of _____, County of _____, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is _____, and the address at which I receive mail, if different than my residence, is _____; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and~~

~~prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.~~

~~.....~~
~~.....~~ (Designation of name)

~~.....~~
~~.....~~ (Signature of candidate for office)

Subscribed and sworn to before me
 this day of the month of of the year

~~.....~~
~~Notary Public or other person~~
~~authorized to administer an oath~~

~~3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:~~

~~(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his or her residence; or~~

~~(b) The candidate does not present to the filing officer:~~

~~(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or~~

~~(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.~~

~~4. The filing officer shall retain a copy of the documents and proof of [identity and] residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:~~

~~(a) May not be withheld from the public; and~~

~~(b) Must not contain the social security number or driver's license or identification card number of the candidate.~~

~~5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or~~

~~acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.~~

~~6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer:~~

~~(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction; and~~

~~(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.~~

~~7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 293.2725 is hereby amended to read as follows:~~

~~293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers by mail or computer to vote in this State and who has not previously voted in an election for federal office in this State:~~

~~(a) May vote at a polling place only if the person presents **proof of identity** to the election board officer at the polling place ; [;~~

~~(1) A current and valid photo identification of the person, which shows his or her physical address; or~~

~~(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517;] and~~

~~(b) May vote by mail only if the person provides to the county or city clerk:~~

~~(1) A copy of [a current and valid photo identification] **proof of identity** of the person [;] which shows his or her physical address; or~~

~~(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates~~

the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517.

~~*** If there is a question as to the physical address of the person, the election board officer or clerk may request additional information.~~

~~2. The provisions of subsection 1 do not apply to a person who:~~

~~(a) Registers to vote by mail and submits **a copy of his or her proof of identity** with an application to register to vote; **;** **;**~~

~~(1) A copy of a current and valid photo identification; or~~

~~(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517; **;**~~

~~(b) Except as otherwise provided in subsection 3, registers to vote by mail or computer and submits with an application to register to vote a driver's license number or at least the last four digits of his or her social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in the application;~~

~~(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, [42 U.S.C. §§ 1973ff] **52 U.S.C. §§ 20301 et seq.;**~~

~~(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, [42 U.S.C. §§ 1973ee] **52 U.S.C. §§ 20101 et seq.;** or~~

~~(e) Is entitled to vote otherwise than in person under any other federal law.~~

~~3. The provisions of subsection 1 apply to a person described in paragraph (b) of subsection 2 if the voter registration card issued to the person pursuant to subsection 6 of NRS 293.517 is mailed by the county clerk to the person and returned to the county clerk by the United States Postal Service. **(Deleted by amendment.)**~~

Sec. 10. ~~[NRS 293.277 is hereby amended to read as follows:~~

~~293.277 [1.] Except as otherwise provided in NRS 293.541, if a person's name appears in the election board register or if the person provides an affirmation pursuant to NRS 293.525, the person is entitled to vote and must:~~

~~1. **Present proof of identity;** and~~

~~2. **Except as otherwise provided in NRS 293.283,** sign his or her name in the election board register when he or she applies to vote. The signature must be compared by an election board officer with the signature or a facsimile thereof on the person's original application to register to vote or [one of the forms of identification listed in subsection 2.~~

~~2. Except as otherwise provided in NRS 293.2725, the forms of identification which may be used individually to identify a voter at the polling place are:~~

~~(a) The card issued to the voter at the time he or she registered to vote;~~

~~(b) A driver's license;~~

~~—(c) An identification card issued by the Department of Motor Vehicles;~~
~~—(d) A military identification card; or~~
~~—(e) Any other form of identification issued by a governmental agency which contains the voter's signature and physical description or picture.] on his or her proof of identity.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 293.283 is hereby amended to read as follows:~~

~~293.283 Any registered voter who is unable to sign his or her name must~~
~~be].~~

~~1. Present proof of identity; and~~

~~2. Be further identified by answering questions covering the personal data which is reported on the original application to register to vote. The officer in charge of the roster shall stamp, write or print "Identified as" to the left of the voter's name.] (Deleted by amendment.)~~

Sec. 12. ~~[NRS 293.285 is hereby amended to read as follows:~~

~~293.285 A registered voter applying to vote shall state his or her name to the election board officer in charge of the election board register, and the officer shall immediately announce the name, [and] take the registered voter's signature [.] and require that the registered voter present proof of identity.] (Deleted by amendment.)~~

Sec. 13. ~~[NRS 293.287 is hereby amended to read as follows:~~

~~293.287 1. A registered voter applying to vote at any primary election shall give his or her name and political affiliation, if any, to the election board officer in charge of the election board register, and the officer shall immediately announce the name and political affiliation [.] and require that the registered voter present proof of identity.~~

~~2. Any person's right to vote may be challenged by any registered voter upon:~~

~~—(a) Any of the grounds allowed for a challenge in NRS 293.303;~~

~~—(b) The ground that the person applying does not belong to the political party designated upon the register; or~~

~~—(c) The ground that the register does not show that the person designated the political party to which he or she claims to belong.~~

~~3. Any such challenge must be disposed of in the manner provided by NRS 293.303.~~

~~4. A registered voter who has designated on his or her application to register to vote an affiliation with a minor political party may vote a nonpartisan ballot at the primary election.] (Deleted by amendment.)~~

Sec. 14. ~~[NRS 293.3025 is hereby amended to read as follows:~~

~~293.3025 The Secretary of State and each county and city clerk shall ensure that a copy of each of the following is posted in a conspicuous place at each polling place on election day:~~

~~1. A sample ballot;~~

~~2. Information concerning the date and hours of operation of the polling place;~~

~~3. Instructions for voting and casting a ballot, including a provisional ballot;~~

~~4. Instructions concerning the [identification] **proof of identity** required for persons who registered by mail **or computer** and are first time voters for federal office in this State;~~

~~5. Information concerning the accessibility of polling places to persons with disabilities;~~

~~6. General information concerning federal and state laws which prohibit acts of fraud and misrepresentation; and~~

~~7. Information concerning the eligibility of a candidate, a ballot question or any other matter appearing on the ballot as a result of a judicial determination or by operation of law, if any.] **(Deleted by amendment.)**~~

Sec. 15. ~~[NRS 293.203 is hereby amended to read as follows:~~

~~293.203 1. A person applying to vote may be challenged:~~

~~(a) Orally by any registered voter of the precinct upon the ground that he or she is not the person entitled to vote as claimed or has voted before at the same election. A registered voter who initiates a challenge pursuant to this paragraph must submit an affirmation that is signed under penalty of perjury and in the form prescribed by the Secretary of State stating that the challenge is based on the personal knowledge of the registered voter;~~

~~(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.~~

~~2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:~~

~~(a) If the challenge is on the ground that the challenged person does not belong to the political party designated upon the register, "I swear or affirm under penalty of perjury that I belong to the political party designated upon the register";~~

~~(b) If the challenge is on the ground that the register does not show that the challenged person designated the political party to which he or she claims to belong, "I swear or affirm under penalty of perjury that I designated on the application to register to vote the political party to which I claim to belong";~~

~~(c) If the challenge is on the ground that the challenged person does not reside at the residence for which the address is listed in the election board register, "I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register";~~

~~(d) If the challenge is on the ground that the challenged person previously voted a ballot for the election, "I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election"; or~~

~~(e) If the challenge is on the ground that the challenged person is not the person he or she claims to be, "I swear or affirm under penalty of perjury that I am the person whose name is in this election board register."~~

~~2. The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.~~

~~3. Except as otherwise provided in subsection 4, if the challenged person refuses to execute the oath or affirmation so tendered, he or she must not be issued a ballot, and the officer in charge of the election board register shall write the words "Challenged" opposite his or her name in the election board register.~~

~~4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) or (b) of subsection 2, the election board officers shall issue the person a nonpartisan ballot.~~

~~5. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (c) of subsection 2, the election board officers shall inform the person that he or she is entitled to vote only in the manner prescribed in NRS 293.304.~~

~~6. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (c) of subsection 2, the election board officers shall issue the person a partisan ballot.~~

~~7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he or she furnishes satisfactory identification which contains proof of the address at which the person actually resides. For the purposes of this subsection, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the address at which a person resides.~~

~~8. If the challenge is based on the ground set forth in paragraph (c) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless the person:~~

~~(a) Furnishes [official identification which contains a photograph of the person, such as a driver's license or other official document;] **proof of identity;**~~

~~or~~

~~(b) Brings before the election board officers a person who is at least 18 years of age who:~~

~~(1) Furnishes [official identification which contains a photograph of that person, such as a driver's license or other official document;] **his or her own proof of identity;** and~~

~~(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he or she swears to be.~~

~~9. The election board officers shall:~~

~~(a) Record on the challenge list:~~

~~(1) The name of the challenged person;~~

~~(2) The name of the registered voter who initiated the challenge; and~~

~~(3) The result of the challenge; and~~

~~(b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge. **(Deleted by amendment.)**~~

Sec. 16. ~~[NRS 293.3081 is hereby amended to read as follows:~~

~~293.3081 A person at a polling place may cast a provisional ballot in an election to vote for a candidate for federal office if the person complies with the applicable provisions of NRS 293.3082 and:~~

~~1. Declares that he or she has registered to vote and is eligible to vote at that election in that jurisdiction, but [this or her];~~

~~(a) The person's name does not appear on a voter registration list as a voter eligible to vote in that election in that jurisdiction [or an];~~

~~(b) An election official asserts that the person is not eligible to vote in that election in that jurisdiction; or~~

~~(c) The person fails to provide proof of identity;~~

~~2. Applies by mail or computer, on or after January 1, 2003, to register to vote and has not previously voted in an election for federal office in this State and fails to provide [the identification required pursuant to paragraph (a) of subsection 1 of NRS 293.2725] proof of identity to the election board officer at the polling place; or~~

~~3. Declares that he or she is entitled to vote after the polling place would normally close as a result of a court order or other order extending the time established for the closing of polls pursuant to a law of this State in effect 10 days before the date of the election.] (Deleted by amendment.)~~

Sec. 17. ~~[NRS 293.3082 is hereby amended to read as follows:~~

~~293.3082 1. Before a person may cast a provisional ballot pursuant to NRS 293.3081, the person must complete a written affirmation on a form provided by an election board officer, as prescribed by the Secretary of State, at the polling place which includes:~~

~~(a) The name of the person casting the provisional ballot;~~

~~(b) The reason for casting the provisional ballot;~~

~~(c) A statement in which the person casting the provisional ballot affirms under penalty of perjury that he or she is a registered voter in the jurisdiction and is eligible to vote in the election;~~

~~(d) The date and type of election;~~

~~(e) The signature of the person casting the provisional ballot;~~

~~(f) The signature of the election board officer;~~

~~(g) A unique affirmation identification number assigned to the person casting the provisional ballot;~~

~~(h) If the person is casting the provisional ballot pursuant to subsection 1 of NRS 293.3081:~~

~~(1) An indication by the person as to whether or not he or she provided the required identification at the time the person applied to register to vote;~~

~~(2) The address of the person as listed on the application to register to vote;~~

~~(3) Information concerning the place, manner and approximate date on which the person applied to register to vote;~~

~~(4) Any other information that the person believes may be useful in verifying that the person has registered to vote; and~~

~~— (5) A statement informing the voter that if the voter does not provide [identification] **proof of identity** at the time the voter casts the provisional ballot [the] ;~~

~~— (I) The required [identification]; **proof of identity**; or~~

~~— (II) An affidavit stating that the voter is unable to provide proof of identity because he or she is indigent or has a religious objection to being photographed;~~

~~→ must be provided to the county or city clerk not later than 5 p.m. on the Friday following election day and that failure to do so will result in the provisional ballot not being counted;~~

~~— (i) If the person is casting the provisional ballot pursuant to subsection 2 of NRS 293.3081;~~

~~— (1) The address of the person as listed on the application to register to vote;~~

~~— (2) The voter registration number, if any, issued to the person; and~~

~~— (3) A statement informing the voter that [the] ;~~

~~— (I) The required identification ; or~~

~~— (II) An affidavit stating that the voter is unable to provide proof of identity because he or she is indigent or has a religious objection to being photographed;~~

~~→ must be provided to the county or city clerk not later than 5 p.m. on the Friday following election day and that failure to do so will result in the provisional ballot not being counted; and~~

~~— (j) If the person is casting the provisional ballot pursuant to subsection 3 of NRS 293.3081, the voter registration number, if any, issued to the person;~~

~~— 2. After a person completes a written affirmation pursuant to subsection 1:~~

~~— (a) The election board officer shall provide the person with a receipt that includes the unique affirmation identification number described in subsection 1 and that explains how the person may use the free access system established pursuant to NRS 293.3086 to ascertain whether the person's vote was counted, and, if the vote was not counted, the reason why the vote was not counted;~~

~~— (b) The voter's name and applicable information must be entered into the roster in a manner which indicates that the voter cast a provisional ballot; and~~

~~— (c) The election board officer shall issue a provisional ballot to the person to vote only for candidates for federal offices.] (Deleted by amendment.)~~

Sec. 18. ~~[NRS 293.3085 is hereby amended to read as follows:~~

~~— 293.3085 1. Following each election, a canvass of the provisional ballots cast in the election must be conducted pursuant to NRS 293.387 and, if appropriate, pursuant to NRS 293C.387.~~

~~— 2. The county and city clerk shall not:~~

~~— (a) Include any provisional ballot in the unofficial results reported on election night; or~~

~~— (b) Open any envelope containing a provisional ballot before 8 a.m. on the Wednesday following election day.~~

~~3. Except as otherwise provided in subsection 4, a provisional ballot must be counted if:~~

~~(a) The county or city clerk determines that the person who cast the provisional ballot was registered to vote in the election, eligible to vote in the election and issued the appropriate ballot for the address at which the person resides;~~

~~(b) A voter who failed to provide the required identification at the polling place or with his or her mailed ballot provides [the required identification] to the county or city clerk not later than 5 p.m. on the Friday following election day [;];~~

~~(1) If the voter cast his or her provisional ballot at the polling place:~~

~~(I) His or her proof of identity; or~~

~~(II) An affidavit stating that the voter cannot provide proof of identity because he or she is indigent or has a religious objection to being photographed; or~~

~~(2) If the voter cast his or her provisional ballot by mail pursuant to NRS 293.3083, the identification required pursuant to paragraph (b) of subsection 1 of NRS 293.2725; or~~

~~(c) A court order has not been issued by 5 p.m. on the Friday following election day directing that provisional ballots cast pursuant to subsection 3 of NRS 293.3081 not be counted, and the provisional ballot was cast pursuant to subsection 3 of NRS 293.3081.~~

~~4. A provisional ballot must not be counted if the county or city clerk determines that the person who cast the provisional ballot cast the wrong ballot for the address at which the person resides.] (Deleted by amendment.)~~

Sec. 19. ~~[NRS 293.330 is hereby amended to read as follows:~~

~~293.330 1. Except as otherwise provided in subsection 2 of NRS 293.323 and chapter 293D of NRS, and any regulations adopted pursuant thereto, when an absent voter receives an absent ballot, the absent voter must mark and fold it in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his or her signature on the back of the envelope in the space provided therefor and mail the return envelope.~~

~~2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:~~

~~(a) The office of the county clerk, the absent voter must mark the ballot, seal it in the return envelope and affix his or her signature in the same manner as provided in subsection 1, and deliver the envelope to the clerk.~~

~~(b) A polling place, including, without limitation, a polling place for early voting, the absent voter must surrender the absent ballot and provide [satisfactory identification] **proof of identity** before being issued a ballot to vote at the polling place. A person who receives a surrendered absent ballot shall mark it "Cancelled."~~

~~3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the county clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the~~

~~absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:~~

- ~~— (a) Provides [satisfactory identification;] **proof of identity;**~~
- ~~— (b) Is a registered voter who is otherwise entitled to vote; and~~
- ~~— (c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.~~
- ~~4. Except as otherwise provided in NRS 293.316, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of the voter's family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the county clerk that the person is a member of the family of the voter who requested the absent ballot and that the voter requested that the person return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.] (Deleted by amendment.)~~

Sec. 20. ~~[NRS 293.353 is hereby amended to read as follows:~~

~~293.353 1. Except as otherwise provided in subsection 2 or 3, upon receipt of a mailing ballot from the county clerk, the registered voter must, in accordance with the instructions, mark and fold the ballot, deposit and seal the ballot in the return envelope, affix his or her signature on the back of the envelope and mail the envelope to the county clerk.~~

~~2. Except as otherwise provided in subsection 3, if a registered voter who has received a mailing ballot applies to vote in person at:~~

- ~~— (a) The office of the county clerk, the registered voter must mark the ballot, place and seal it in the return envelope and affix his or her signature in the same manner as provided in subsection 1, and deliver the envelope to the clerk.~~
- ~~— (b) One of the polling places on election day or a polling place for early voting in the county designated pursuant to subsection 3 or 4 of NRS 293.343, the registered voter must surrender the mailing ballot and provide [satisfactory identification] **proof of identity** before being issued a ballot to vote at the polling place. A person who receives a surrendered mailing ballot shall mark it "Cancelled."~~

~~3. If a registered voter who has received a mailing ballot wishes to vote in person at the office of the county clerk or at one of the polling places on election day or a polling place for early voting in the county designated pursuant to subsection 3 or 4 of NRS 293.343, and the voter does not have the mailing ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:~~

- ~~— (a) Provides [satisfactory identification;] **proof of identity;**~~
- ~~— (b) Is a registered voter who is otherwise entitled to vote; and~~
- ~~— (c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.~~
- ~~4. It is unlawful for any person to return a mailing ballot other than the registered voter to whom the ballot was sent or, at the request of the voter, a~~

member of the family of that voter. A person who returns a mailing ballot and who is a member of the family of the voter who received the mailing ballot shall, under penalty of perjury, indicate on a form prescribed by the county clerk that the person is a member of the family of the voter who received the mailing ballot and that the voter requested that he or she return the mailing ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.] **(Deleted by amendment.)**

Sec. 21. ~~[NRS 293.356 is hereby amended to read as follows:~~
~~293.356 If a request is made to vote early by a registered voter in person,~~
~~the election board shall, except as otherwise provided in NRS 293.3585, issue~~
~~a ballot for early voting to the voter. Such a ballot must be voted on the~~
~~premises of a polling place for early voting established pursuant to~~
~~NRS 293.3564 or 293.3572.] **(Deleted by amendment.)**~~

Sec. 22. ~~[NRS 293.3585 is hereby amended to read as follows:~~
~~293.3585 1. Upon the appearance of a person to cast a ballot for early~~
~~voting, the deputy clerk for early voting shall [;]~~
~~(a) Determine that] **determine whether** the person is a registered voter in~~
~~the county [;~~
~~(b)] **and, if so:**~~
~~(a) Instruct the voter to sign the roster for early voting;~~
~~(b) **Require the voter to present proof of identity;** and~~
~~(c) Verify the signature of the voter against that contained on the original~~
~~application to register to vote or a facsimile thereof, the card issued to the voter~~
~~at the time of registration or [some other piece of official identification.] **the**~~
~~**voter's proof of identity;**~~
~~2. The county clerk shall prescribe a procedure, approved by the Secretary~~
~~of State, to determine that the voter has not already voted pursuant to this~~
~~section;~~
~~3. The roster for early voting must contain:~~
~~(a) The voter's name, the address where he or she is registered to vote, his~~
~~or her voter identification number and a place for the voter's signature;~~
~~(b) The voter's precinct or voting district number; and~~
~~(c) The date of voting early in person;~~
~~4. When a voter is entitled to cast a ballot and has identified himself or~~
~~herself to the satisfaction of the deputy clerk for early voting, the voter is~~
~~entitled to receive the appropriate ballot or ballots, but only for his or her own~~
~~use at the polling place for early voting;~~
~~5. If the ballot is voted on a mechanical recording device which directly~~
~~records the votes electronically, the deputy clerk for early voting shall:~~
~~(a) Prepare the mechanical recording device for the voter;~~
~~(b) Ensure that the voter's precinct or voting district and the form of ballot~~
~~are indicated on the voting receipt, if the county clerk uses voting receipts; and~~
~~(c) Allow the voter to cast a vote;~~

~~6. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293.303.~~ **(Deleted by amendment.)**

Sec. 23. [NRS 293.517 is hereby amended to read as follows:

~~293.517 1. Any elector residing within the county may register to vote:~~

~~(a) Except as otherwise provided in NRS 293.560 and 293C.527, by appearing before the county clerk, a field registrar or a voter registration agency, completing the application to register to vote, giving true and satisfactory answers to all questions relevant to his or her identity and right to vote, and providing proof of residence and identity [;] **as provided in this subsection;**~~

~~(b) By completing and mailing or personally delivering to the county clerk an application to register to vote pursuant to the provisions of NRS 293.5235;~~

~~(c) Pursuant to the provisions of NRS 293.524 or chapter 293D of NRS;~~

~~(d) At his or her residence with the assistance of a field registrar pursuant to NRS 293.5237; or~~

~~(e) By submitting an application to register to vote by computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters.~~

~~➤ The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering the person. If the applicant registers to vote pursuant to this subsection and fails to provide proof of residence and identity [;] **as provided in this subsection,** the applicant must provide proof of residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to NRS 293.3081 or 293.3083. For the purposes of this subsection, a voter registration card issued pursuant to subsection 6 does not provide proof of the residence or identity of a person.~~

~~2. The application to register to vote must be signed and verified under penalty of perjury by the elector registering.~~

~~3. Each elector who is or has been married must be registered under his or her own given or first name, and not under the given or first name or initials of his or her spouse.~~

~~4. An elector who is registered and changes his or her name must complete a new application to register to vote. The elector may obtain a new application:~~

~~(a) At the office of the county clerk or field registrar;~~

~~(b) By submitting an application to register to vote pursuant to the provisions of NRS 293.5235;~~

~~(c) By submitting a written statement to the county clerk requesting the county clerk to mail an application to register to vote;~~

~~(d) At any voter registration agency; or~~

~~(e) By submitting an application to register to vote by computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters.~~

~~➤ If the elector fails to register under his or her new name, the elector may be challenged pursuant to the provisions of NRS 293.303 or 293C.292 and may~~

be required to furnish proof of identity, ~~as defined in section 2 of this act~~, and subsequent change of name.

~~5. Except as otherwise provided in subsection 7, an elector who registers to vote pursuant to paragraph (a) of subsection 1 shall be deemed to be registered upon the completion of an application to register to vote.~~

~~6. After the county clerk determines that the application to register to vote of a person is complete and that, except as otherwise provided in NRS 293D.210, the person is eligible to vote pursuant to NRS 293.485, the county clerk shall issue a voter registration card to the voter which contains:~~

~~— (a) The name, address, political affiliation and precinct number of the voter;~~

~~— (b) The date of issuance; and~~

~~— (c) The signature of the county clerk.~~

~~7. If an elector submits an application to register to vote or an affidavit described in paragraph (c) of subsection 1 of NRS 293.507 that contains any handwritten additions, erasures or interlineations, the county clerk may object to the application to register to vote if the county clerk believes that because of such handwritten additions, erasures or interlineations, the application to register to vote of the elector is incomplete or that, except as otherwise provided in NRS 293D.210, the elector is not eligible to vote pursuant to NRS 293.485. If the county clerk objects pursuant to this subsection, he or she shall immediately notify the elector and the district attorney of the county. Not later than 5 business days after the district attorney receives such notification, the district attorney shall advise the county clerk as to whether:~~

~~— (a) The application to register to vote of the elector is complete and, except as otherwise provided in NRS 293D.210, the elector is eligible to vote pursuant to NRS 293.485; and~~

~~— (b) The county clerk should proceed to process the application to register to vote.~~

~~→ If the District Attorney advises the county clerk to process the application to register to vote, the county clerk shall immediately issue a voter registration card to the applicant pursuant to subsection 6.} (Deleted by amendment.)~~

Sec. 24. ~~[NRS 293.5235 is hereby amended to read as follows:~~

~~293.5235 1. Except as otherwise provided in NRS 293.502 and chapter 293D of NRS, a person may register to vote by mailing an application to register to vote to the county clerk of the county in which the person resides or may register to vote by computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register to vote. The county clerk shall, upon request, mail an application to register to vote to an applicant. The county clerk shall make the applications available at various public places in the county. An application to register to vote may be used to correct information in the registrar of voters' register.~~

~~2. An application to register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations or voter registration agencies in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is~~

~~personally delivered to the county clerk shall be deemed to have been returned by mail.~~

~~3. The applicant must complete the application, including, without limitation, checking the boxes described in paragraphs (b) and (c) of subsection 10 and signing the application.~~

~~4. The county clerk shall, upon receipt of an application, determine whether the application is complete.~~

~~5. If the county clerk determines that the application is complete, he or she shall, within 10 days after receiving the application, mail to the applicant:~~

~~(a) A notice that the applicant is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or~~

~~(b) A notice that the registrar of voters' register has been corrected to reflect any changes indicated on the application.~~

~~6. Except as otherwise provided in subsection 5 of NRS 293.518, if the county clerk determines that the application is not complete, the county clerk shall, as soon as possible, mail a notice to the applicant that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after receiving the information, mail to the applicant:~~

~~(a) A notice that the applicant is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or~~

~~(b) A notice that the registrar of voters' register has been corrected to reflect any changes indicated on the application.~~

~~7. If the applicant does not provide the additional information within the prescribed period, the application is void.~~

~~7. The applicant shall be deemed to be registered or to have corrected the information in the register on the date the application is postmarked or received by the county clerk, whichever is earlier.~~

~~8. If the applicant fails to check the box described in paragraph (b) of subsection 10, the application shall not be considered invalid and the county clerk shall provide a means for the applicant to correct the omission at the time the applicant appears to vote in person at the assigned polling place.~~

~~9. The Secretary of State shall prescribe the form for an application to register to vote by:~~

~~(a) Mail, which must be used to register to vote by mail in this State.~~

~~(b) Computer, which must be used to register to vote in a county if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register to vote.~~

~~10. The application to register to vote by mail must include:~~

~~(a) A notice in at least 10-point type which states:~~

~~NOTICE: You are urged to return your application to register to vote to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on~~

~~your behalf, and the person fails to deliver the application to the County Clerk, you will not be registered to vote. Please retain the duplicate copy or receipt from your application to register to vote.~~

~~—(b) The question, “Are you a citizen of the United States?” and boxes for the applicant to check to indicate whether or not the applicant is a citizen of the United States.~~

~~—(c) The question, “Will you be at least 18 years of age on or before election day?” and boxes for the applicant to check to indicate whether or not the applicant will be at least 18 years of age or older on election day.~~

~~—(d) A statement instructing the applicant not to complete the application if the applicant checked “no” in response to the question set forth in paragraph (b) or (c).~~

~~—(e) A statement informing the applicant that if the application is submitted by mail and the applicant is registering to vote for the first time, the applicant must [submit the information set forth in paragraph (a) of subsection 2 of NRS 293.2725 to avoid the requirements of subsection 1] **comply with the provisions** of NRS 293.2725. [upon voting for the first time.]~~

~~—11. Except as otherwise provided in subsection 5 of NRS 293.518, the county clerk shall not register a person to vote pursuant to this section unless that person has provided all of the information required by the application.~~

~~—12. The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall attempt to determine whether the person’s current residence is other than that indicated on the application to register to vote in the manner set forth in NRS 293.530.~~

~~—13. A person who, by mail, registers to vote pursuant to this section may be assisted in completing the application to register to vote by any other person. The application must include the mailing address and signature of the person who assisted the applicant. The failure to provide the information required by this subsection will not result in the application being deemed incomplete.~~

~~—14. An application to register to vote must be made available to all persons, regardless of political party affiliation.~~

~~—15. An application must not be altered or otherwise defaced after the applicant has completed and signed it. An application must be mailed or delivered in person to the office of the county clerk within 10 days after it is completed.~~

~~—16. A person who willfully violates any of the provisions of subsection 13, 14 or 15 is guilty of a category E felony and shall be punished as provided in NRS 193.130.~~

~~—17. The Secretary of State shall adopt regulations to carry out the provisions of this section.] **(Deleted by amendment.)**~~

Sec. 25. ~~[NRS 293.541 is hereby amended to read as follows:~~

- ~~293.541 1. The county clerk shall cancel the registration of a voter if:~~
- ~~(a) After consultation with the district attorney, the district attorney determines that there is probable cause to believe that information in the registration concerning the identity or residence of the voter is fraudulent;~~
 - ~~(b) The county clerk provides a notice as required pursuant to subsection 2 or executes an affidavit of cancellation pursuant to subsection 3; and~~
 - ~~(c) The voter fails to present [satisfactory] proof of identity and **satisfactory proof of residence** pursuant to subsection 2, 4 or 5.~~
- ~~2. Except as otherwise provided in subsection 3, the county clerk shall notify the voter by registered or certified mail, return receipt requested, of a determination made pursuant to subsection 1. The notice must set forth the grounds for cancellation. Unless the voter, within 15 days after the return receipt has been filed in the office of the county clerk, presents [satisfactory] proof of identity and **satisfactory proof of residence** to the county clerk, the county clerk shall cancel the voter's registration.~~
- ~~3. If insufficient time exists before a pending election to provide the notice required by subsection 2, the county clerk shall execute an affidavit of cancellation and file the affidavit of cancellation with the registrar of voters' register and:~~
- ~~(a) In counties where records of registration are not kept by computer, the county clerk shall attach a copy of the affidavit of cancellation in the election board register.~~
 - ~~(b) In counties where records of registration are kept by computer, the county clerk shall have the affidavit of cancellation printed on the computer entry for the registration and add a copy of it to the election board register.~~
- ~~4. If a voter appears to vote at the election next following the date that an affidavit of cancellation was executed for the voter pursuant to this section, the voter must be allowed to vote only if the voter furnishes:~~
- ~~(a) [Official identification which contains a photograph of the voter, including, without limitation, a driver's license or other official document;]~~
Proof of identity; and
 - ~~(b) Satisfactory [identification that contains] proof of the address at which the voter actually resides and that address is consistent with the address listed on the election board register.~~
- ~~5. If a determination is made pursuant to subsection 1 concerning information in the registration to vote of a voter and an absent ballot or a ballot voted by a voter who resides in a mailing precinct is received from the voter, the ballot must be kept separate from other ballots and must not be counted unless the voter presents [satisfactory] **proof of identity** to the county clerk [of identity] and **satisfactory proof of residence** before such ballots are counted on election day.~~
- ~~6. For the purposes of this section, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the:~~
- ~~(a) Address at which a person actually resides; or~~
 - ~~(b) Residence [or identity] of a person.] (Deleted by amendment.)~~

Sec. 26. ~~[NRS 293C.185 is hereby amended to read as follows:~~

~~293C.185 1. Except as otherwise provided in NRS 293C.115 and 293C.190, a name may not be printed on a ballot to be used at a primary city election unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than 70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.~~

~~2. A declaration of candidacy required to be filed by this section must be in substantially the following form:~~

~~DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF~~

~~State of Nevada~~

~~City of~~

~~For the purpose of having my name placed on the official ballot as a candidate for the office of, I, ..., the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.~~

~~.....
(Designation of name)~~

~~.....
(Signature of candidate for office)~~

~~Subscribed and sworn to before me~~

~~this day of the month of of the year~~

~~.....~~
~~Notary Public or other person~~
~~authorized to administer an oath~~

~~3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:~~

~~(a) The candidate's address is listed as a post office box unless a street address has not been assigned to the residence; or~~

~~(b) The candidate does not present to the filing officer:~~

~~(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or~~

~~(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.~~

~~4. The filing officer shall retain a copy of the documents and proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:~~

~~(a) May not be withheld from the public; and~~

~~(b) Must not contain the social security number or driver's license or identification card number of the candidate.~~

~~5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the city clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.~~

~~6. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the city clerk:~~

~~(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored by a court of competent jurisdiction; and~~

~~(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.~~

~~7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.]~~
(Deleted by amendment.)

Sec. 27. ~~[NRS 293C.270 is hereby amended to read as follows:~~
~~293C.270 [1.] If a person's name appears in the election board register or if the person provides an affirmation pursuant to NRS 293C.525, the person is entitled to vote and must:~~

- ~~1. ***Present proof of identity;*** and~~
 - ~~2. ***Except as otherwise provided in NRS 293C.272,*** sign his or her name in the election board register when he or she applies to vote. The signature must be compared by an election board officer with the signature or a facsimile thereof on the person's original application to register to vote or [one of the forms of identification listed in subsection 2.~~
 - ~~2. The forms of identification that may be used to identify a voter at the polling place are:~~
 - ~~(a) The card issued to the voter at the time he or she registered to vote;~~
 - ~~(b) A driver's license;~~
 - ~~(c) An identification card issued by the Department of Motor Vehicles;~~
 - ~~(d) A military identification card; or~~
 - ~~(e) Any other form of identification issued by a governmental agency that contains the voter's signature and physical description or picture.]~~
- (Deleted by amendment.)**

Sec. 28. ~~[NRS 293C.272 is hereby amended to read as follows:~~
~~293C.272 Any registered voter who is unable to sign his or her name must~~
~~[be]:~~

- ~~1. ***Present proof of identity;*** and~~
 - ~~2. ***Be further*** identified by answering questions covering the personal data that is reported on the original application to register to vote. The officer in charge of the roster shall stamp, write or print "Identified as" to the left of the voter's name.]~~
- (Deleted by amendment.)**

Sec. 29. ~~[NRS 293C.275 is hereby amended to read as follows:~~
~~293C.275 A registered voter who applies to vote must state his or her name to the election board officer in charge of the election board register, and the officer shall immediately announce the name, [and] take the registered voter's signature [.] and require that the registered voter present proof of identity.]~~
(Deleted by amendment.)

Sec. 30. ~~[NRS 293C.277 is hereby amended to read as follows:~~

~~293C.277 [1. A registered voter who applies to vote at an election must give his or her name to the election board officer in charge of the election board register, and the officer shall immediately announce the name of the voter.~~

~~2.] Any person's right to vote may be challenged by a registered voter upon any of the grounds allowed for a challenge in NRS 293C.292. Any such challenge must be disposed of in the manner provided in NRS 293C.292.]~~
(Deleted by amendment.)

Sec. 31. ~~[NRS 293C.292 is hereby amended to read as follows:~~

~~293C.292 1. A person applying to vote may be challenged:~~

~~(a) Orally by any registered voter of the precinct or district upon the ground that he or she is not the person entitled to vote as claimed or has voted before at the same election; or~~

~~(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.~~

~~2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:~~

~~(a) If the challenge is on the ground that the challenged person does not reside at the residence for which the address is listed in the election board register, "I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register";~~

~~(b) If the challenge is on the ground that the challenged person previously voted a ballot for the election, "I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election"; or~~

~~(c) If the challenge is on the ground that the challenged person is not the person he or she claims to be, "I swear or affirm under penalty of perjury that I am the person whose name is in this election board register."~~

~~* The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.~~

~~3. If the challenged person refuses to execute the oath or affirmation so tendered, he or she must not be issued a ballot, and the officer in charge of the election board register shall write the words "Challenged" opposite his or her name in the election board register.~~

~~4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) of subsection 2, the election board officers shall inform the person that he or she is entitled to vote only in the manner prescribed in NRS 293C.295.~~

~~5. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (c) of subsection 2, the election board officers shall issue him or her a ballot.~~

~~6. If the challenge is based on the ground set forth in paragraph (a) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he or she furnishes satisfactory identification that contains proof of the address at which the~~

person actually resides. For the purposes of this subsection, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the address at which a person resides.

~~7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless the person:~~

~~—(a) Furnishes [official identification which contains a photograph of the person, such as a driver's license or other official document;] **proof of identity**; or~~

~~—(b) Brings before the election board officers a person who is at least 18 years of age who:~~

~~—(1) Furnishes [official identification which contains a photograph of the person, such as a driver's license or other official document;] **his or her own proof of identity**; and~~

~~—(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he or she swears to be.~~

~~8. The election board officers shall:~~

~~—(a) Record on the challenge list:~~

~~—(1) The name of the challenged person;~~

~~—(2) The name of the registered voter who initiated the challenge; and~~

~~—(3) The result of the challenge; and~~

~~—(b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge. **(Deleted by amendment.)**~~

Sec. 32. [NRS 293C.330 is hereby amended to read as follows:

~~293C.330 1. Except as otherwise provided in subsection 2 of NRS 293C.322 and chapter 293D of NRS, and any regulations adopted pursuant thereto, when an absent voter receives an absent ballot, the absent voter must mark and fold it in accordance with the instructions, deposit it in the return envelope, seal the envelope, affix his or her signature on the back of the envelope in the space provided therefor and mail the return envelope.~~

~~2. Except as otherwise provided in subsection 3, if an absent voter who has requested a ballot by mail applies to vote the ballot in person at:~~

~~—(a) The office of the city clerk, the absent voter must mark the ballot, seal it in the return envelope and affix his or her signature in the same manner as provided in subsection 1, and deliver the envelope to the city clerk.~~

~~—(b) A polling place, including, without limitation, a polling place for early voting, the absent voter must surrender the absent ballot and provide [satisfactory identification] **proof of identity** before being issued a ballot to vote at the polling place. A person who receives a surrendered absent ballot shall mark it "Cancelled."~~

~~3. If an absent voter who has requested a ballot by mail applies to vote in person at the office of the city clerk or a polling place, including, without limitation, a polling place for early voting, and the voter does not have the absent ballot to deliver or surrender, the voter must be issued a ballot to vote if the voter:~~

~~— (a) Provides [satisfactory identification;] **proof of identity;**~~
~~— (b) Is a registered voter who is otherwise entitled to vote; and~~
~~— (c) Signs an affirmation under penalty of perjury on a form prepared by the Secretary of State declaring that the voter has not voted during the election.~~
~~— 4. Except as otherwise provided in NRS 293C.317, it is unlawful for any person to return an absent ballot other than the voter who requested the absent ballot or, at the request of the voter, a member of the voter's family. A person who returns an absent ballot and who is a member of the family of the voter who requested the absent ballot shall, under penalty of perjury, indicate on a form prescribed by the city clerk that the person is a member of the family of the voter who requested the absent ballot and that the voter requested that the person return the absent ballot. A person who violates the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 493.120.] **(Deleted by amendment.)**~~

Sec. 33. ~~[NRS 293C.356 is hereby amended to read as follows:~~
~~— 293C.356 1. If a request is made to vote early by a registered voter in person, the city clerk shall, **except as otherwise provided in NRS 293C.3585,** issue a ballot for early voting to the voter. Such a ballot must be voted on the premises of the clerk's office and returned to the clerk.~~
~~— 2. On the dates for early voting prescribed in NRS 293C.3568, each city clerk shall provide a voting booth, with suitable equipment for voting, on the premises of the city clerk's office for use by registered voters who are issued ballots for early voting in accordance with this section.] **(Deleted by amendment.)**~~

Sec. 34. ~~[NRS 293C.3585 is hereby amended to read as follows:~~
~~— 293C.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall [:~~
~~— (a) Determine that] **determine whether** the person is a registered voter in the county [;~~
~~— (b)] **and, if so:**~~
~~— (a) Instruct the voter to sign the roster for early voting;~~
~~— (b) **Require the voter to present proof of identity;** and~~
~~— (c) Verify the signature of the voter against that contained on the original application to register to vote or a facsimile thereof, the card issued to the voter at the time of registration or [some other piece of official identification.] **the voter's proof of identity.**~~
~~— 2. The city clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.~~
~~— 3. The roster for early voting must contain:~~
~~— (a) The voter's name, the address where he or she is registered to vote, his or her voter identification number and a place for the voter's signature;~~
~~— (b) The voter's precinct or voting district number; and~~
~~— (c) The date of voting early in person.~~
~~— 4. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the deputy clerk for early voting, the voter is~~

entitled to receive the appropriate ballot or ballots, but only for his or her own use at the polling place for early voting.

~~5. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:~~

~~(a) Prepare the mechanical recording device for the voter;~~

~~(b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the voting receipt, if the city clerk uses voting receipts; and~~

~~(c) Allow the voter to cast a vote.~~

~~6. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293C.292.] (Deleted by amendment.)~~

Sec. 35. ~~[This act becomes effective:~~

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

~~2. On January 1, 2016, for all other purposes.] (Deleted by amendment.)~~

Sec. 36. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 37, 38 and 39 of this act.

Sec. 37. A county clerk shall provide each election board officer with the equipment necessary to:

1. Take a digital colored photograph of a person pursuant to NRS 293.277; and

2. Store each photograph taken of a person and each driver's license number and identification card number provided by a person pursuant to NRS 293.277 in a secure manner that may not be modified, copied or destroyed.

Sec. 38. A county clerk shall provide each deputy clerk for early voting with the equipment necessary to:

1. Take a digital colored photograph of a person pursuant to NRS 293.3585; and

2. Store each photograph taken of a person and each driver's license number and identification card number provided by a person pursuant to NRS 293.3585 in a secure manner that may not be modified, copied or destroyed.

Sec. 39. The Department of Motor Vehicles shall provide digital colored photographs of registered voters to the Secretary of State or to a county clerk upon request. The Secretary of State and the Department shall enter into a cooperative agreement to carry out the provisions of this section.

Sec. 40. NRS 293.247 is hereby amended to read as follows:

293.247 1. The Secretary of State shall adopt regulations, not inconsistent with the election laws of this State, for the conduct of primary, general, special and district elections in all cities and counties. Permanent regulations of the Secretary of State that regulate the conduct of a primary, general, special or district election and are effective on or before the last business day of February immediately preceding a primary, general, special or district election govern the conduct of that election.

2. The Secretary of State shall prescribe the forms for a declaration of candidacy, certificate of candidacy, acceptance of candidacy and any petition which is filed pursuant to the general election laws of this State.

3. The regulations must prescribe:

- (a) The duties of election boards;
- (b) The type and amount of election supplies;
- (c) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;
- (d) The method to be used in distributing ballots to precincts and districts;
- (e) The method of inspection and the disposition of ballot boxes;
- (f) The form and placement of instructions to voters;
- (g) The recess periods for election boards;
- (h) The size, lighting and placement of voting booths;
- (i) The amount and placement of guardrails and other furniture and equipment at voting places;
- (j) The disposition of election returns;
- (k) The procedures to be used for canvasses, ties, recounts and contests, including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically;
- (l) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to the provisions of NRS 293.391 or 293C.390;
- (m) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;
- (n) The procedures to be used for the testing, use and auditing of a mechanical voting system which directly records the votes electronically and which creates a paper record when a voter casts a ballot on the system;
- (o) The procedures to be used for the disposition of absent ballots in case of an emergency;
- (p) The acceptable standards for the sending and receiving of applications, forms and ballots, by approved electronic transmission, by the county clerks and the electors or registered voters who are authorized to use approved electronic transmission pursuant to the provisions of this title;
- (q) The forms for applications to register to vote and any other forms necessary for the administration of this title; ~~and~~
- (r) **The procedures for obtaining photographs of registered voters that are required to be included in election board registers and rosters for early voting;**
- (s) **The procedures to be followed by election board officers and deputy clerks for early voting, as applicable, to take photographs and obtain driver's license numbers and identification card members pursuant to NRS 293.277, 293.3585, 293C.270 and 293C.3585; and**
- (t) Such other matters as determined necessary by the Secretary of State.

4. The Secretary of State may provide interpretations and take other actions necessary for the effective administration of the statutes and regulations governing the conduct of primary, general, special and district elections in this State.

5. The Secretary of State shall prepare and distribute to each county and city clerk copies of:

- (a) Laws and regulations concerning elections in this State;
- (b) Interpretations issued by the Secretary of State's Office; and
- (c) Any Attorney General's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the Secretary of State.

Sec. 41. NRS 293.277 is hereby amended to read as follows:

293.277 1. Except as otherwise provided in NRS 293.541 ~~1~~, **and subject to the provisions of subsections 2, 3 and 4,** if a person's name appears in the election board register or if the person provides an affirmation pursuant to NRS 293.525, the person is entitled to vote and must sign his or her name in the election board register when he or she applies to vote. The signature must be compared by an election board officer with the signature or a facsimile thereof on the person's original application to register to vote or one of the forms of identification listed in subsection 2.

2. Except as otherwise provided in NRS 293.2725, the forms of identification which may be used individually to identify a voter at the polling place are:

- (a) The card issued to the voter at the time he or she registered to vote;
- (b) A driver's license;
- (c) An identification card issued by the Department of Motor Vehicles;
- (d) A military identification card; or
- (e) Any other form of identification issued by a governmental agency which contains the voter's signature and physical description or picture.

3. If the election board register contains a photograph next to the person's name, an election board officer shall compare the photograph with the appearance of the person. If the election board officer:

(a) Believes that the person in the photograph is the person applying to vote, the election board officer shall allow the person to vote.

(b) Does not believe that the person in the photograph is the person applying to vote, the election board officer shall allow the person to vote if the person provides a written affirmation signed under penalty of perjury and in the form prescribed by the Secretary of State that he or she is the registered voter who he or she claims to be.

4. If the election board register does not contain a photograph next to the person's name, an election board officer shall request that the person authorize the election board officer to take a photograph of the person or provide to the election board officer his or her driver's license number or identification card number, if any. If the person:

(a) Provides to the election board officer the person's driver's license number or identification card number, the election board officer shall record the number in the election board register and allow the person to vote.

(b) Authorizes the election board officer to take the person's photograph, the election board officer shall take the photograph and allow the person to vote.

(c) Declines to comply with the election board officer's request, the election board officer shall allow the person to vote if the person provides a written affirmation signed under penalty of perjury and in the form prescribed by the Secretary of State that he or she is the registered voter who he or she claims to be.

Sec. 42. NRS 293.283 is hereby amended to read as follows:

293.283 Any registered voter who is unable to sign his or her name must be identified by answering questions covering the personal data which is reported on the original application to register to vote. The officer in charge of the roster shall mark, stamp, write, ~~or~~ print or otherwise indicate "Identified as" next to ~~the left of~~ the voter's name.

Sec. 43. NRS 293.303 is hereby amended to read as follows:

293.303 1. A person applying to vote may be challenged:

(a) ~~Orally~~ Except as otherwise provided in subsection 10, orally by any registered voter of the precinct upon the ground that he or she is not the person entitled to vote as claimed or has voted before at the same election. A registered voter who initiates a challenge pursuant to this paragraph must submit an affirmation that is signed under penalty of perjury and in the form prescribed by the Secretary of State stating that the challenge is based on the personal knowledge of the registered voter.

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that the challenged person does not belong to the political party designated upon the register, "I swear or affirm under penalty of perjury that I belong to the political party designated upon the register";

(b) If the challenge is on the ground that the register does not show that the challenged person designated the political party to which he or she claims to belong, "I swear or affirm under penalty of perjury that I designated on the application to register to vote the political party to which I claim to belong";

(c) If the challenge is on the ground that the challenged person does not reside at the residence for which the address is listed in the election board register, "I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register";

(d) If the challenge is on the ground that the challenged person previously voted a ballot for the election, "I swear or affirm under penalty of perjury that

I have not voted for any of the candidates or questions included on this ballot for this election”; or

(e) If the challenge is on the ground that the challenged person is not the person he or she claims to be, “I swear or affirm under penalty of perjury that I am the person whose name is in this election board register.”

➡ The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.

3. Except as otherwise provided in subsection 4, if the challenged person refuses to execute the oath or affirmation so tendered, he or she must not be issued a ballot, and the officer in charge of the election board register shall write the words “Challenged” opposite his or her name in the election board register.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) or (b) of subsection 2, the election board officers shall issue the person a nonpartisan ballot.

5. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (c) of subsection 2, the election board officers shall inform the person that he or she is entitled to vote only in the manner prescribed in NRS 293.304.

6. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (e) of subsection 2, the election board officers shall issue the person a partisan ballot.

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he or she furnishes satisfactory identification which contains proof of the address at which the person actually resides. For the purposes of this subsection, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the address at which a person resides.

8. If the challenge is based on the ground set forth in paragraph (e) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless the person:

(a) Furnishes official identification which contains a photograph of the person, such as a driver’s license or other official document; or

(b) Brings before the election board officers a person who is at least 18 years of age who:

(1) Furnishes official identification which contains a photograph of that person, such as a driver’s license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he or she swears to be.

9. The election board officers shall:

(a) Record on the challenge list:

(1) The name of the challenged person;

(2) The name of the registered voter who initiated the challenge; and

(3) The result of the challenge; and

(b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge.

10. No person may be challenged pursuant to paragraph (a) of subsection 1 because:

(a) The person declines to comply with a request to provide his or her driver's license number or identification card number at the time he or she appears to vote in person pursuant to NRS 293.277 or 293.3585;

(b) The person does not have a driver's license or identification card;

(c) The election board register or roster for early voting does not contain a photograph of the person;

(d) The person declines to comply with a request that he or she authorize an election board officer or a deputy clerk for early voting to take the person's photograph; or

(e) An election board officer or a deputy clerk for early voting believes that the person applying to vote is not the same person in the photograph contained in the election board register or roster for early voting.

Sec. 44. NRS 293.3585 is hereby amended to read as follows:

293.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

(a) Determine that the person is a registered voter in the county;

(b) Instruct the voter to sign the roster for early voting; ~~and~~

(c) Verify the signature of the voter against that contained on the original application to register to vote or a facsimile thereof, the card issued to the voter at the time of registration or some other piece of official identification ~~for~~; and

(d) Comply with the provisions of subsection 2 or 3, as applicable.

2. If the roster for early voting contains a photograph next to the person's name, a deputy clerk for early voting shall compare the photograph with the appearance of the person. If the deputy clerk for early voting:

(a) Believes that the person in the photograph is the person applying to vote, the deputy clerk for early voting shall allow the person to vote.

(b) Does not believe that the person in the photograph is the person applying to vote, the deputy clerk for early voting shall allow the person to vote if the person provides a written affirmation signed under penalty of perjury and in the form prescribed by the Secretary of State that he or she is the registered voter who he or she claims to be.

3. If the roster for early voting does not contain a photograph next to the person's name, the deputy clerk for early voting shall request that the person authorize the deputy clerk for early voting to take a photograph of the person or provide to the deputy clerk for early voting his or her driver's license number or identification card number, if any. If the person:

(a) Provides to the deputy clerk for early voting the person's driver's license number or identification card number, the deputy clerk for early voting shall record the number in the roster for early voting and allow the person to vote.

(b) Authorizes the deputy clerk for early voting to take the person's photograph, the deputy clerk for early voting shall take the photograph and allow the person to vote.

(c) Declines to comply with the deputy clerk for early voting's request, the deputy clerk for early voting shall allow the person to vote if the person provides a written affirmation signed under penalty of perjury and in the form prescribed by the Secretary of State that he or she is the registered voter who he or she claims to be.

4. The county clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

~~3.~~ **5.** The roster for early voting must contain:

(a) The voter's name, the address where he or she is registered to vote, his or her voter identification number, ~~and~~ a place for the voter's signature ~~and~~ **and the voter's photograph, if a photograph of the voter has been obtained pursuant to subsection 3, NRS 293.277, 293C.270 or 293C.3585 or section 39 of this act;**

(b) The voter's precinct or voting district number; and

(c) The date of voting early in person.

~~4.~~ **6.** When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the deputy clerk for early voting, the voter is entitled to receive the appropriate ballot or ballots, but only for his or her own use at the polling place for early voting.

~~5.~~ **7.** If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the voting receipt, if the county clerk uses voting receipts; and

(c) Allow the voter to cast a vote.

~~6.~~ **8.** A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293.303.

Sec. 45. NRS 293.440 is hereby amended to read as follows:

293.440 1. Any person who desires a copy of any list of the persons who are registered to vote in any precinct, district or county may obtain a copy by applying at the office of the county clerk and paying therefor a sum of money equal to 1 cent per name on the list, except that one copy of each original and supplemental list for each precinct, district or county must be provided both to the state central committee of any major political party and to the county central committee of any major political party, and to the executive committee of any minor political party upon request, without charge.

2. Except as otherwise provided in NRS 293.5002 and 293.558, the copy of the list provided pursuant to this section must indicate the address, date of birth, telephone number and the serial number on each application to register to vote. **The copy of the list must not include a photograph of a person or indicate any portion of a person's driver's license number, identification**

card number or social security number. If the county maintains this information in a computer database, the date of the most recent addition or revision to an entry, if made on or after July 1, 1989, must be included in the database and on any resulting list of the information. The date must be expressed numerically in the order of month, day and year.

3. A county may not pay more than 10 cents per folio or more than \$6 per thousand copies for printed lists for a precinct or district.

4. A county which has a system of computers capable of recording information on magnetic tape or diskette shall, upon request of the state central committee or county central committee of any major political party or the executive committee of any minor political party which has filed a certificate of existence with the Secretary of State, record for both the state central committee and the county central committee of the major political party, if requested, and for the executive committee of the minor political party, if requested, on magnetic tape or diskette supplied by it:

(a) The list of persons who are registered to vote and the information required in subsection 2; and

(b) Not more than four times per year, as requested by the state or county central committee or the executive committee:

(1) A complete list of the persons who are registered to vote with a notation for the most recent entry of the date on which the entry or the latest change in the information was made; or

(2) A list that includes additions and revisions made to the list of persons who are registered to vote after a date specified by the state or county central committee or the executive committee.

5. If a political party does not provide its own magnetic tape or diskette, or if a political party requests the list in any other form that does not require printing, the county clerk may charge a fee to cover the actual cost of providing the tape, diskette or list.

6. Any state or county central committee of a major political party, any executive committee of a minor political party or any member or representative of such a central committee or executive committee who receives without charge a list of the persons who are registered to vote in any precinct, district or county pursuant to this section shall not:

(a) Use the list for any purpose that is not related to an election; or

(b) Sell the list for compensation or other valuable consideration.

Sec. 46. NRS 293.510 is hereby amended to read as follows:

293.510 1. In counties where computers are not used to register voters, the county clerk shall:

(a) Segregate original applications to register to vote according to the precinct in which the registered voters reside and arrange the applications in each precinct or district in alphabetical order. The applications for each precinct or district must be kept in a separate binder which is marked with the number of the precinct or district. ~~[This binder constitutes the]~~ **For each precinct and district, the county clerk shall create a computer listing which**

contains the information included in the applications to register to vote and a photograph of each registered voter whose photograph has been obtained pursuant to NRS 293.277, 293.3585, 293C.270 or 293C.3585 or section 39 of this act. This computer listing is the election board register.

(b) Arrange the duplicate applications of registration in alphabetical order for the entire county and keep them in binders or a suitable file which constitutes the registrar of voters' register.

2. In any county where a computer is used to register voters, the county clerk shall:

(a) Arrange the original applications to register to vote for the entire county in a manner in which an original application may be quickly located. These original applications constitute the registrar of voters' register.

(b) Segregate the applications to register to vote in a computer file according to the precinct or district in which the registered voters reside, and for each precinct or district have printed a computer listing which contains the applications to register to vote in alphabetical order. These listings of applications to register to vote must be placed in separate binders which are marked with the number of the precinct or district. These binders constitute the election board registers.

Sec. 47. Chapter 293C of NRS is hereby amended by adding thereto the provisions set forth as sections 48 and 49 of this act.

Sec. 48. A city clerk shall provide each election board officer with any equipment necessary to:

1. Take a digital colored photograph of a person pursuant to NRS 293C.270; and

2. Store each photograph taken of a person and each driver's license number and identification card number provided by a person pursuant to NRS 293C.270 in a secure manner that may not be modified, copied or destroyed.

Sec. 49. A city clerk shall provide each deputy clerk for early voting with any equipment necessary to:

1. Take a digital colored photograph of a person pursuant to NRS 293C.3585; and

2. Store each photograph taken of a person and each driver's license number and identification card number provided by a person pursuant to NRS 293C.3585 in a secure manner that may not be modified, copied or destroyed.

Sec. 50. NRS 293C.270 is hereby amended to read as follows:

293C.270 1. ~~##~~ **Except as otherwise provided in NRS 293.541, and subject to the provisions of subsections 2, 3 and 4, if** a person's name appears in the election board register or if the person provides an affirmation pursuant to NRS 293C.525, the person is entitled to vote and must sign his or her name in the election board register when he or she applies to vote. The signature must be compared by an election board officer with the signature or a facsimile

thereof on the person's original application to register to vote or one of the forms of identification listed in subsection 2.

2. The forms of identification that may be used to identify a voter at the polling place are:

- (a) The card issued to the voter at the time he or she registered to vote;
- (b) A driver's license;
- (c) An identification card issued by the Department of Motor Vehicles;
- (d) A military identification card; or
- (e) Any other form of identification issued by a governmental agency that contains the voter's signature and physical description or picture.

3. If the election board register contains a photograph next to the person's name, an election board officer shall compare the photograph with the appearance of the person. If the election board officer:

(a) Believes that the person in the photograph is the person applying to vote, the election board officer shall allow the person to vote.

(b) Does not believe that the person in the photograph is the person applying to vote, the election board officer shall allow the person to vote if the person provides a written affirmation signed under penalty of perjury and in the form prescribed by the Secretary of State that he or she is the registered voter who he or she claims to be.

4. If the election board register does not contain a photograph next to the person's name, an election board officer shall request that the person authorize the election board officer to take a photograph of the person or provide to the election board officer his or her driver's license number or identification card number, if any. If the person:

(a) Provides to the election board officer the person's driver's license number or identification card number, the election board officer shall record the number in the election board register and allow the person to vote.

(b) Authorizes the election board officer to take the person's photograph, the election board officer shall take the photograph and allow the person to vote.

(c) Declines to comply with the election board officer's request, the election board officer shall allow the person to vote if the person provides a written affirmation signed under penalty of perjury and in the form prescribed by the Secretary of State that he or she is the registered voter who he or she claims to be.

Sec. 51. NRS 293C.272 is hereby amended to read as follows:

293C.272 Any registered voter who is unable to sign his or her name must be identified by answering questions covering the personal data that is reported on the original application to register to vote. The officer in charge of the roster shall ~~mark~~, stamp, write, ~~for~~ print **or otherwise indicate** "Identified as" **next** to ~~the left of~~ the voter's name.

Sec. 52. NRS 293C.292 is hereby amended to read as follows:

293C.292 1. A person applying to vote may be challenged:

(a) ~~[Orally]~~ **Except as otherwise provided in subsection 9, orally** by any registered voter of the precinct or district upon the ground that he or she is not the person entitled to vote as claimed or has voted before at the same election; or

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that the challenged person does not reside at the residence for which the address is listed in the election board register, “I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register”;

(b) If the challenge is on the ground that the challenged person previously voted a ballot for the election, “I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election”; or

(c) If the challenge is on the ground that the challenged person is not the person he or she claims to be, “I swear or affirm under penalty of perjury that I am the person whose name is in this election board register.”

➡ The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.

3. If the challenged person refuses to execute the oath or affirmation so tendered, he or she must not be issued a ballot, and the officer in charge of the election board register shall write the words “Challenged” opposite his or her name in the election board register.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) of subsection 2, the election board officers shall inform the person that he or she is entitled to vote only in the manner prescribed in NRS 293C.295.

5. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (c) of subsection 2, the election board officers shall issue him or her a ballot.

6. If the challenge is based on the ground set forth in paragraph (a) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he or she furnishes satisfactory identification that contains proof of the address at which the person actually resides. For the purposes of this subsection, a voter registration card issued pursuant to NRS 293.517 does not provide proof of the address at which a person resides.

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless the person:

(a) Furnishes official identification which contains a photograph of the person, such as a driver’s license or other official document; or

(b) Brings before the election board officers a person who is at least 18 years of age who:

(1) Furnishes official identification which contains a photograph of the person, such as a driver's license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he or she swears to be.

8. The election board officers shall:

(a) Record on the challenge list:

(1) The name of the challenged person;

(2) The name of the registered voter who initiated the challenge; and

(3) The result of the challenge; and

(b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge.

9. No person may be challenged pursuant to paragraph (a) of subsection 1 because:

(a) The person declines to comply with a request to provide his or her driver's license number or identification card number at the time he or she appears to vote in person pursuant to NRS 293C.270 or 293C.3585;

(b) The person does not have a driver's license or identification card;

(c) The election board register or roster for early voting does not contain a photograph of the person;

(d) The person declines to comply with a request that he or she authorize an election board officer or a deputy clerk for early voting to take the person's photograph; or

(e) An election board officer or a deputy clerk for early voting believes that the person applying to vote is not the same person in the photograph contained in the election board register or roster for early voting.

Sec. 53. NRS 293C.3585 is hereby amended to read as follows:

293C.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

(a) Determine that the person is a registered voter in the county;

(b) Instruct the voter to sign the roster for early voting; ~~and~~

(c) Verify the signature of the voter against that contained on the original application to register to vote or a facsimile thereof, the card issued to the voter at the time of registration or some other piece of official identification ~~for~~; **and**

(d) Comply with the provisions of subsection 2 or 3, as applicable.

2. If the roster for early voting contains a photograph next to the person's name, a deputy clerk for early voting shall compare the photograph with the appearance of the person. If the deputy clerk for early voting:

(a) Believes that the person in the photograph is the person applying to vote, the deputy clerk for early voting shall allow the person to vote.

(b) Does not believe that the person in the photograph is the person applying to vote, the deputy clerk for early voting shall allow the person to vote if the person provides a written affirmation signed under penalty of

perjury and in the form prescribed by the Secretary of State that he or she is the registered voter who he or she claims to be.

3. If the roster for early voting does not contain a photograph next to the person's name, the deputy clerk for early voting shall request that the person authorize the deputy clerk for early voting to take a photograph of the person or provide to the deputy clerk for early voting his or her driver's license number or identification card number, if any. If the person:

(a) Provides to the deputy clerk for early voting the person's driver's license number or identification card number, the deputy clerk for early voting shall record the number in the roster for early voting and allow the person to vote.

(b) Authorizes the deputy clerk for early voting to take the person's photograph, the deputy clerk for early voting shall take the photograph and allow the person to vote.

(c) Declines to comply with the deputy clerk for early voting's request, the deputy clerk for early voting shall allow the person to vote if the person provides a written affirmation signed under penalty of perjury and in the form prescribed by the Secretary of State that he or she is the registered voter who he or she claims to be.

4. The city clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

~~{3}~~ 5. The roster for early voting must contain:

(a) The voter's name, the address where he or she is registered to vote, his or her voter identification number, ~~and~~ a place for the voter's signature, ~~and~~ and the voter's photograph, if a photograph of the voter has been obtained pursuant to subsection 3, NRS 293.277, 293.3585 or 293C.270 or section 39 of this act;

(b) The voter's precinct or voting district number; and

(c) The date of voting early in person.

~~{4}~~ 6. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the deputy clerk for early voting, the voter is entitled to receive the appropriate ballot or ballots, but only for his or her own use at the polling place for early voting.

~~{5}~~ 7. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the voting receipt, if the city clerk uses voting receipts; and

(c) Allow the voter to cast a vote.

~~{6}~~ 8. A voter applying to vote early by personal appearance may be challenged pursuant to NRS 293C.292.

Sec. 54. NRS 293C.535 is hereby amended to read as follows:

293C.535 1. Except as otherwise provided by special charter, registration of electors in incorporated cities must be accomplished in the manner provided in this chapter.

2. The county clerk shall use the ~~[statewide voter registration list]~~ **election board register created by the county clerk pursuant to NRS 293.510** to prepare for the city clerk of each incorporated city within the county ~~[the]~~ **an electronic** election board register of all electors eligible to vote at a regular or special city election. **The entries in the election board register must be arranged alphabetically with the surnames first.**

3. The official register must be prepared in suitable books, one for each ward or other voting district within each incorporated city. ~~[The entries in the election board register must be arranged alphabetically with the surnames first.]~~

4. The county clerk shall keep duplicate originals or copies of the applications to register to vote contained in the official register in the county clerk's office.

Sec. 55. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 56. This act becomes effective:

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

2. On January 1, 2016, for all other purposes.

Assemblyman Stewart moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 258.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 541.

AN ACT relating to securities; providing for an exemption from the requirement to register for certain offerings for the sale of securities made through certain Internet websites; establishing certain requirements relating to an issuer of a security who qualifies for such an exemption; providing for the registration of certain operators of Internet websites who post offerings for the sale of securities not required to be registered; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth requirements for the registration of a security with the Securities Division of the Office of the Secretary of State before an offer to sell or a sale of such a security is made unless certain exceptions apply. (NRS 90.460-90.510) Existing law further provides for an exemption of certain securities from the registration requirement and sets forth the filing requirements necessary to qualify for the exemption. (NRS 90.520-90.565)

Section 3 of this bill provides an additional exemption from the registration requirement for securities for an offer to sell or sale of a security offered by an

issuer through an Internet website, commonly known as a “crowdfunding” website, if certain filing and disclosure requirements are met. **Section 3** requires that to qualify for this exemption, the issuer of the security and the Internet website conducting the offer of the security must be business entities organized and existing in Nevada. **Section 3** also requires that any purchaser of such a security be a resident of, or a business entity organized and existing in, Nevada. The amount of the offer made pursuant to the exemption provided for in **section 3** is limited to \$1,000,000 in any consecutive 12-month period. The exemption also limits an investor’s purchase to \$5,000, unless the purchaser is an accredited investor. **Section 3** further requires a depository institution to hold all investor funds in an escrow account until the issuer’s crowdfunding goal is met. **Section 3** also requires the Administrator of the Division to adopt regulations to carry out the implementation of the new registration exemption.

Section 4 of this bill requires such an Internet website to register with the Division before conducting any offer or sale of a security for an issuer pursuant to the exemption provided for in **section 3**. **Section 4** also provides for certain registration exemptions for a crowdfunding Internet website if certain registration requirements are met with the Securities and Exchange Commission.

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

Section 1. Chapter 90 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *“Accredited investor” has the meaning ascribed to it in 17 C.F.R § 230.501(a).*

Sec. 3. 1. *A transaction involving the offer to sell or sale of a security by an issuer that is conducted exclusively through ~~one or more~~ an Internet website ~~website~~ is exempt from the provisions of NRS 90.460 and 90.560 if:*

(a) The issuer of the security is a business entity organized and existing under the laws of this State.

(b) The transaction satisfies the requirements for exemption under the Securities Act of 1933, 15 U.S.C. §§ 77c(a)(11) and Rule 147 of the Securities and Exchange Commission, 17 C.F.R. § 230.147.

(c) The total aggregate sales of the security, during any 12 consecutive months, does not exceed \$1,000,000.

(d) The issuer does not accept an investment of more than \$5,000 from any single purchaser, unless the purchaser is an accredited investor.

(e) At least 80 percent of the net proceeds from the offering will be used in connection with the operations of the issuer in this State.

(f) Unless otherwise waived by the Administrator, not less than ~~10~~ 21 days before making an offer to sell a security pursuant to this section, the issuer:

(1) Files a ~~Form D - Notice of Exempt Offering of Securities with the Securities and Exchange Commission;~~ notice of exempt offering of securities through intrastate crowdfunding on a form prescribed by the Administrator;

(2) Pays the fee for the exemption established by the Administrator by regulation;

(3) Provides the Administrator a copy of the disclosure document provided to the prospective investor pursuant to paragraph (l); and

(4) Provides the Administrator with a copy of the escrow agreement with a depository institution authorized to do business in this State into which the issuer will deposit the money of the investors.

(g) The issuer is not, either before or as a result of the offering made pursuant to this section:

(1) An investment company, as defined in 15 U.S.C. § 80a-3;

(2) An entity described in 15 U.S.C. § 80a-3(c); or

(3) Subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78m and 78o(d).

(h) The issuer informs all prospective investors in securities offered pursuant to this section that the securities are not registered under federal securities law or the securities law of this State and are subject to resale limitations by including the following statement at the beginning of the disclosure document:

In making an investment decision, investors must rely on their own examination of the issuer and the terms of the offering, including the merits and risks involved. These securities have not been recommended by the United States Securities and Exchange Commission or the Securities Division of the Office of the Secretary of State of Nevada. Furthermore, the foregoing authorities have not confirmed the accuracy or determined the adequacy of this document. Any representation to the contrary is a criminal offense. These securities are subject to restrictions on transferability and resale and may not be transferred or resold except as permitted by Rule 147 of the Securities and Exchange Commission, 17 C.F.R. § ~~230.147(e)~~, 230.147(4)(e), as promulgated under the Securities Act of 1933, as amended, and the applicable securities laws of this State, pursuant to registration or exemption therefrom. Investors should be aware that they will be required to bear the financial risks of this investment for an indefinite period of time.

(i) Each purchaser certifies in writing or electronically the following:

I understand and acknowledge that I am investing in a high risk, speculative business venture. I may lose all of my investment or, under some circumstances, more than my investment, and I can afford this loss. This offering has not been reviewed or approved by the United

States Securities and Exchange Commission or the Securities Division of the Office of the Secretary of State of Nevada, and no such authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering. The securities I am acquiring in this offering are not liquid, there is no ready market for the sale of such securities, it may be difficult or impossible for me to sell or otherwise dispose of this investment and I may be required to hold this investment indefinitely. I may be subject to tax on my share of the taxable income and losses of the company, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the company.

(j) The issuer obtains written confirmation from each purchaser, as well as sufficient independent evidence, that each the purchaser is a resident of this State and, if applicable, :

(1) Obtains written confirmation from each purchaser that the purchaser has not invested more than \$5,000, in the aggregate, in offerings exempted pursuant to this section during the preceding 12 months; or

(2) Has verified that the purchaser is an accredited investor.

(k) ~~The~~ Any payments for the purchase of securities offered pursuant to this section are directly deposited in and held by the depository institution named in the escrow agreement described in subparagraph (4) of paragraph (f). ~~holds all payments for the purchase of securities offered pursuant to this section.~~

(l) The issuer of a security offered under the exemption provided pursuant to this section provides a disclosure document to each prospective investor at the time the offer to sell the security is made that contains:

(1) A description of the issuer, its organizational structure and the address and telephone number of its principal office;

(2) The history and business plan of the issuer, the intended use of the proceeds from the offering, a description of any related party transactions and a listing of any amounts to be paid, as compensation or otherwise, to any owner, executive officer, director, managing member or other person holding a similar status or performing similar functions on behalf of the issuer;

(3) The name of each person who owns more than ~~20~~ 10 percent of the ownership interests of any class of securities of the issuer;

(4) The name of each executive officer, director, managing member or other person holding a similar status or performing similar functions in the name of and on behalf of the issuer, including the title and prior experience of the person;

(5) The terms and conditions of the securities being offered for sale and of any outstanding securities of the issuer, the minimum and maximum amount of securities being offered, the deadline for completion of the offering, the percentage of ownership of the issuer represented by the offered

securities, the price per share, unit or interest of the securities being offered, any restrictions imposed on the transfer of securities being offered and a disclosure of any anticipated future issuance of securities that would affect the value of the securities being offered;

(6) The name of any person, other than a person acting solely as the issuer's attorney or accountant, who has been or will be retained by the issuer to assist in conducting the offering and sale of securities pursuant to this section, including, without limitation, the operator of ~~any~~ the Internet website, and a description of the consideration being paid to the person for such assistance, if applicable;

(7) A description of any litigation, legal proceedings or pending regulatory action involving the issuer or its management;

(8) The name and Internet address of ~~each~~ the Internet website that will be used by the issuer to offer or sell securities pursuant to this section; ~~and~~

(9) Current financial statements of the issuer certified by one of its officers as being true and correct; and

(10) Any additional information as required by the Administrator relating to the speculative nature of the offering ~~it~~, including, without limitation, an analysis of its significant risk factors.

(m) The offering exempted pursuant to this section is made exclusively through ~~one or more~~ an Internet ~~(website)~~ website and the operator of ~~each such~~ the Internet website:

(1) Except as otherwise provided in subsection 7, registers with the Division by filing a statement that includes the information set forth in subsection 1 of section 4 of this act;

(2) Maintains records of all offers and sales of securities made through the Internet website and provides such records to the Division upon request;

(3) Limits access to the offer to sell or sale of securities pursuant to this section to residents of this State; and

(4) Does not hold, manage, possess or handle money or securities transacted through the Internet website, hold any ownership interest in any issuer that utilizes the Internet website or make an investment based on an offer to sell securities made through the Internet website.

(n) The issuer provides a quarterly report to its investors and to the Division until the securities offered for sale by the issuer pursuant to this section are no longer outstanding. The report must include, without limitation:

(1) The total compensation received by each director and executive officer of the issuer, including, without limitation, cash compensation earned since the previous report and on an annual basis, and any bonuses, stock options, other rights to receive securities of the issuer or any affiliate of the issuer and other compensation received; and

(2) An analysis of the business operations and financial condition of the issuer ~~that~~, including, without limitation, current financial statements of the issuer certified by one of its officers as being true and correct.

2. An offer to sell or sale of a security to an officer, director, partner, trustee or person holding a similar position or performing similar functions in the name of and on behalf of the issuer who owns 10 percent or more of the outstanding shares of any class or classes of securities of the issuer does not count toward the monetary limitation set forth in paragraph (c) of subsection 1.

3. An issuer shall not access the money held in escrow by a depository institution pursuant to paragraph (k) of subsection 1 until the aggregate money raised from an offering for the sale of securities made pursuant to this section equals or exceeds the minimum amount specified in the escrow agreement.

4. An investor may cancel its investment commitment made based on an offering for the sale of securities made pursuant to this section:

(a) If the target offering amount is not raised within the time limit stated in the escrow agreement; or

(b) For any reason, if such cancellation occurs more than 48 hours before the offering deadline identified in the disclosure document provided by the issuer.

5. An exemption claimed pursuant to this section may not be used in conjunction with any other exemption provided for in this chapter, except for an offer to sell or a sale made to a person identified in the disclosure document described in paragraph (l) of subsection 1 during the 12 months immediately preceding the exempted offer or sale.

6. The exemption provided for in this section cannot be used if an issuer or person affiliated with the issuer or offering is subject to disqualification as established by the Administrator by regulation or pursuant to ~~the Securities Act of 1933, 15 U.S.C. § 77c(a)(11), and Rule 147 of the Securities and Exchange Commission, 17 C.F.R. § 230.147(c).~~ Rule 506(d)(1) of the Securities and Exchange Commission, 17 C.F.R. § 230.506(d)(1).

7. An operator of an Internet website is not required to register as a broker-dealer if the operator ~~that~~

~~(a) Satisfies~~ satisfies the requirements of subsection 2 of section 4 of this act. ~~that~~

~~(b) Is registered as a broker-dealer under the Securities Exchange Act of 1934, 15 U.S.C. § 78e.~~

8. An issuer may distribute in this State a notice relating to an offering exempted pursuant to this section, except that such notice must not contain any information other than:

(a) A statement that the issuer is conducting such offering;

(b) The name of the operator of the Internet website through which the offering is being conducted; and

(c) An Internet link directing a purchaser to the Internet website.

9. Beginning on January 1, 2021, and every 5 years thereafter, the Administrator shall adjust the monetary limitation set forth in paragraph (c) of subsection 1 based proportionally on changes to the Consumer Price Index for all Urban Consumers published by the United States Department of Labor. The monetary limitation must be rounded to the nearest \$50,000.

~~{9.}~~ 10. The Administrator shall adopt regulations necessary and appropriate to carry out the provisions of this section.

Sec. 4. 1. If required to register with the Division pursuant to paragraph (m) of subsection 1 of section 3 of this act, the operator of an Internet website must register with the Division by paying the filing fee established by the Administrator by regulation and submitting to the Division a statement setting forth:

(a) That the Internet website is operated by a business entity organized and existing under the laws of this State;

(b) That the operator of the Internet website is acting on behalf of an issuer to offer to sell and sell securities pursuant to section 3 of this act;

(c) The address and contact information of the operator of the Internet website; and

(d) Except as otherwise provided in subsection 2, confirmation that the operator of the Internet website is licensed as a broker-dealer pursuant to NRS 90.310.

2. The operator of an Internet website is not required to be licensed as a broker-dealer pursuant to NRS 90.310 if:

(a) The operator does not:

(1) Offer investment advice or recommendations;

(2) Solicit purchases, sales or offers to buy the securities offered or displayed on the Internet website;

(3) Compensate employees, agents or other persons for the solicitation, or based on the sale of securities displayed or referenced on the Internet website;

(4) Identify, promote or otherwise refer to any individual security offered on the Internet website in any advertising for the Internet website; and

(5) Engage in any other activities that the Administrator determines by regulation are prohibited;

(b) The operator is not compensated based on the amount of securities sold;

(c) The fee imposed by the operator of the Internet website for an offering of securities on the Internet website is a fixed amount for each offering, a variable amount based on the length of time that the securities are offered or a combination of the fixed and variable fees; and

(d) The operator of the Internet website, or director, executive officer, general partner, managing member or other person affiliated with the operator of the Internet website or with management authority for the Internet website, has not been subject to any matter which causes

disqualification pursuant to Rule 506(d)(1) of the Securities and Exchange Commission, 17 C.F.R. § 230.506(d)(1).

3. An operator of an Internet website shall report to the Division any change relating to an exemption from a requirement to register or to be licensed within 30 days after such a change occurs.

Sec. 5. NRS 90.211 is hereby amended to read as follows:

90.211 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 90.215 to 90.309, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 5.5. NRS 90.410 is hereby amended to read as follows:

90.410 1. The Administrator, without previous notice, may examine in a manner reasonable under the circumstances the records, within or without this State, of a licensed broker-dealer, sales representative, investment adviser ~~for~~, representative of an investment adviser **or an operator of an Internet website registered pursuant to section 4 of this act** to determine compliance with this chapter. Licensed broker-dealers, sales representatives, investment advisers ~~and~~, representatives of investment advisers **and operators of Internet websites registered pursuant to section 4 of this act** shall make their records available to the Administrator in legible form.

2. The Administrator, without previous notice, may examine, in a manner reasonable under the circumstances and as the Administrator considers necessary or appropriate in the public interest and for the protection of investors, the records, within or without this State, of any person who would otherwise be required to be licensed pursuant to NRS 90.310 or 90.330 ~~or~~ **or registered as an operator of an Internet website pursuant to section 4 of this act**. Such persons shall make their records available to the Administrator in legible form.

3. Except as otherwise provided in subsection 4, the Administrator may copy records or require a licensed person **or registered operator** to copy records and provide the copies to the Administrator to the extent and in a manner reasonable under the circumstances.

4. The Administrator may inspect and copy records or require a transfer agent to copy records and provide the copies to the Administrator to the extent such records relate to information concerning principals, corporate officers or stockholders of any publicly traded company based in this State.

5. The Administrator by regulation may impose a reasonable fee for the expense of conducting an examination under this section.

Sec. 6. NRS 90.530 is hereby amended to read as follows:

90.530 The following transactions are exempt from NRS 90.460 and 90.560:

1. An isolated nonissuer transaction, whether or not effected through a broker-dealer.

2. A nonissuer transaction in an outstanding security if the issuer of the security has a class of securities subject to registration under section 12 of the Securities Exchange Act of 1934, 15 U.S.C. § 78l, and has been subject to the

reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78m and 78o(d), for not less than 90 days next preceding the transaction, or has filed and maintained with the Administrator for not less than 90 days preceding the transaction information, in such form as the Administrator, by regulation, specifies, substantially comparable to the information the issuer would be required to file under section 12(b) or 12(g) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78l(b) and 78l(g), were the issuer to have a class of its securities registered under section 12 of the Securities Exchange Act of 1934, 15 U.S.C. § 78l, and paid a fee of \$300 with the filing.

3. A nonissuer transaction by a sales representative licensed in this State, in an outstanding security if:

(a) The security is sold at a price reasonably related to the current market price of the security at the time of the transaction;

(b) The security does not constitute all or part of an unsold allotment to, or subscription or participation by, a broker-dealer as an underwriter of the security;

(c) At the time of the transaction, a recognized securities manual designated by the Administrator by regulation or order contains the names of the issuer's officers and directors, a statement of the financial condition of the issuer as of a date within the preceding 18 months, and a statement of income or operations for each of the last 2 years next preceding the date of the statement of financial condition, or for the period as of the date of the statement of financial condition if the period of existence is less than 2 years;

(d) The issuer of the security has not undergone a major reorganization, merger or acquisition within the preceding 30 days which is not reflected in the information contained in the manual; and

(e) At the time of the transaction, the issuer of the security has a class of equity security listed on the New York Stock Exchange, American Stock Exchange or other exchange designated by the Administrator, or on the National Market System of the National Association of Securities Dealers Automated Quotation System. The requirements of this paragraph do not apply if:

(1) The security has been outstanding for at least 180 days;

(2) The issuer of the security is actually engaged in business and is not developing the issuer's business, in bankruptcy or in receivership; and

(3) The issuer of the security has been in continuous operation for at least 5 years.

4. A nonissuer transaction in a security that has a fixed maturity or a fixed interest or dividend provision if there has been no default during the current fiscal year or within the 3 preceding years, or during the existence of the issuer, and any predecessors if less than 3 years, in the payment of principal, interest or dividends on the security.

5. A nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to purchase.

6. A transaction between the issuer or other person on whose behalf the offering of a security is made and an underwriter, or a transaction among underwriters.

7. A transaction in a bond or other evidence of indebtedness secured by a real estate mortgage, deed of trust, personal property security agreement, or by an agreement for the sale of real estate or personal property, if the entire mortgage, deed of trust or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit.

8. A transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator.

9. A transaction executed by a bona fide secured party without the purpose of evading this chapter.

10. An offer to sell or the sale of a security to a financial or institutional investor or to a broker-dealer.

11. Except as otherwise provided in this subsection, a transaction pursuant to an offer to sell securities of an issuer if:

(a) The transaction is part of an issue in which there are not more than 25 purchasers in this State, other than those designated in subsection 10, during any 12 consecutive months;

(b) No general solicitation or general advertising is used in connection with the offer to sell or sale of the securities;

(c) No commission or other similar compensation is paid or given, directly or indirectly, to a person, other than a broker-dealer licensed or not required to be licensed under this chapter, for soliciting a prospective purchaser in this State; and

(d) One of the following conditions is satisfied:

(1) The seller reasonably believes that all the purchasers in this State, other than those designated in subsection 10, are purchasing for investment; or

(2) Immediately before and immediately after the transaction, the issuer reasonably believes that the securities of the issuer are held by 50 or fewer beneficial owners, other than those designated in subsection 10, and the transaction is part of an aggregate offering that does not exceed \$500,000 during any 12 consecutive months.

➡ The Administrator by rule or order as to a security or transaction or a type of security or transaction may withdraw or further condition the exemption set forth in this subsection or waive one or more of the conditions of the exemption.

12. An offer to sell or sale of a preorganization certificate or subscription if:

(a) No commission or other similar compensation is paid or given, directly or indirectly, for soliciting a prospective subscriber;

(b) No public advertising or general solicitation is used in connection with the offer to sell or sale;

(c) The number of offers does not exceed 50;

(d) The number of subscribers does not exceed 10; and

(e) No payment is made by a subscriber.

13. An offer to sell or sale of a preorganization certificate or subscription issued in connection with the organization of a depository institution if that organization is under the supervision of an official or agency of a state or of the United States which has and exercises the authority to regulate and supervise the organization of the depository institution. For the purpose of this subsection, “under the supervision of an official or agency” means that the official or agency by law has authority to require disclosures to prospective investors similar to those required under NRS 90.490, impound proceeds from the sale of a preorganization certificate or subscription until organization of the depository institution is completed, and require refund to investors if the depository institution does not obtain a grant of authority from the appropriate official or agency.

14. A transaction pursuant to an offer to sell to existing security holders of the issuer, including persons who at the time of the transaction are holders of transferable warrants exercisable within not more than 90 days after their issuance, convertible securities or nontransferable warrants, if:

(a) No commission or other similar compensation, other than a standby commission, is paid or given, directly or indirectly, for soliciting a security holder in this State; or

(b) The issuer first files a notice specifying the terms of the offer to sell, together with a nonrefundable fee of \$300, and the Administrator does not by order disallow the exemption within the next 5 full business days.

15. A transaction involving an offer to sell, but not a sale, of a security not exempt from registration under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., if:

(a) A registration or offering statement or similar record as required under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., has been filed, but is not effective;

(b) A registration statement, if required, has been filed under this chapter, but is not effective; and

(c) No order denying, suspending or revoking the effectiveness of registration, of which the offeror is aware, has been entered by the Administrator or the Securities and Exchange Commission, and no examination or public proceeding that may culminate in that kind of order is known by the offeror to be pending.

16. A transaction involving an offer to sell, but not a sale, of a security exempt from registration under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., if:

(a) A registration statement has been filed under this chapter, but is not effective; and

(b) No order denying, suspending or revoking the effectiveness of registration, of which the offeror is aware, has been entered by the Administrator and no examination or public proceeding that may culminate in that kind of order is known by the offeror to be pending.

17. A transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets or other reorganization to which the issuer, or its parent or subsidiary, and the other person, or its parent or subsidiary, are parties, if:

(a) The securities to be distributed are registered under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., before the consummation of the transaction; or

(b) The securities to be distributed are not required to be registered under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., written notice of the transaction and a copy of the materials, if any, by which approval of the transaction will be solicited, together with a nonrefundable fee of \$300, are given to the Administrator at least 10 days before the consummation of the transaction and the Administrator does not, by order, disallow the exemption within the next 10 days.

18. A transaction involving the offer to sell or sale of one or more promissory notes each of which is directly secured by a first lien on a single parcel of real estate, or a transaction involving the offer to sell or sale of participation interests in the notes if the notes and participation interests are originated by a depository institution and are offered and sold subject to the following conditions:

(a) The minimum aggregate sales price paid by each purchaser may not be less than \$250,000;

(b) Each purchaser must pay cash either at the time of the sale or within 60 days after the sale; and

(c) Each purchaser may buy for the purchaser's own account only.

19. A transaction involving the offer to sell or sale of one or more promissory notes directly secured by a first lien on a single parcel of real estate or participating interests in the notes, if the notes and interests are originated by a mortgagee approved by the Secretary of Housing and Urban Development under sections 203 and 211 of the National Housing Act, 12 U.S.C. §§ 1709 and 1715b, and are offered or sold, subject to the conditions specified in subsection 18, to a depository institution or insurance company, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Government National Mortgage Association.

20. A transaction between any of the persons described in subsection 19 involving a nonassignable contract to buy or sell the securities described in subsection 18 if the contract is to be completed within 2 years and if:

(a) The seller of the securities pursuant to the contract is one of the parties described in subsection 18 or 19 who may originate securities;

(b) The purchaser of securities pursuant to a contract is any other person described in subsection 19; and

(c) The conditions described in subsection 18 are fulfilled.

21. A transaction involving one or more promissory notes secured by a lien on real estate, or participating interests in those notes, by:

(a) A mortgage banker licensed pursuant to chapter 645E of NRS to engage in those transactions; or

(b) A mortgage broker licensed pursuant to chapter 645B of NRS to engage in those transactions.

22. *An offer to sell or sale of a security by an issuer if the transaction:*

(a) *Is conducted exclusively through ~~one or more~~ an Internet ~~websites,~~ website; and*

(b) *Satisfies the requirements of section 3 of this act.*

Sec. 7. This act becomes effective:

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

2. On January 1, 2016, for all other purposes.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 268.

Bill read second time.

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

Amendment No. 503.

AN ACT relating to foster care; authorizing a licensing authority to conduct a background check on a person who routinely supervises a child in a foster home; requiring an applicant or person licensed to conduct a foster home to prevent such a person from being present in the foster home if the background check reports certain prior criminal convictions of the person; allowing a person who routinely supervises a child in a foster home for whom an investigation is conducted an opportunity to correct such information; ~~requiring each applicant for a license to conduct a foster home and each person licensed to conduct a foster home to maintain records of certain information concerning certain persons who routinely supervise a child in a foster home;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person to be licensed to conduct a foster home. (NRS 424.030) Existing law requires the licensing authority that licenses foster homes to obtain certain information on the background and personal history of each applicant for a license, person who is licensed to conduct a foster home, employee of that applicant or licensee and certain residents of a foster home who are 18 years of age or older. (NRS 424.031) **Section 1** of this bill authorizes the licensing authority or a person designated by the licensing authority to obtain such information on a person who is 18 years of age or older who routinely supervises a child in a foster home.

Existing law requires each applicant for a license to conduct a foster home, person who is licensed to conduct a foster home, employee of that applicant or

licensee and certain residents of a foster home who are 18 years of age or older to submit a complete set of fingerprints and certain documentation to the licensing authority that licenses foster homes. If the licensing authority determines that the applicant or licensee has committed a certain crime, the licensing authority may deny, suspend or revoke the license. If the licensing authority determines that an employee or certain resident who is 18 years of age or older has committed a certain crime, the licensee is required to terminate the employment of that person, and may be subject to discipline for failing to do so. (NRS 424.033) **Section 2** of this bill requires a person who is 18 years of age or older who routinely supervises a child in a foster home for whom an investigation is conducted pursuant to **section 1** to submit to the same background investigation by the licensing authority that licenses foster homes. In addition, if the licensing authority that licenses foster homes determines that the person has been convicted of a certain offense, the applicant or licensee is required to ensure that the person is not present in the home and may be subject to discipline for failing to do so.

Existing law requires an applicant or licensee to terminate the employment of an employee or remove a resident from the foster home upon receiving certain information regarding prior criminal convictions of the employee or resident. Existing law also provides such an employee or resident an opportunity to correct such information before being terminated. (NRS 424.0335) **Section 3** of this bill requires a licensee to prevent any person who is 18 years of age or older who routinely supervises a child in a foster home for whom an investigation is conducted pursuant to **section 1** from continuing to supervise a child in the foster home upon receiving such information about the person and allows the person to correct such information. ~~Existing law requires each applicant for a license to conduct a foster home to maintain records concerning the personal backgrounds and certain criminal convictions of its employees and certain residents. (NRS 424.034) Section 4 of this bill requires such applicants and licensees to maintain such records concerning certain persons who are 18 years of age or older who routinely supervise a child in the foster home.~~

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

Section 1. NRS 424.031 is hereby amended to read as follows:

424.031 1. The licensing authority or a person or entity designated by the licensing authority shall obtain from appropriate law enforcement agencies information on the background and personal history of each applicant for a license to conduct a foster home, person who is licensed to conduct a foster home, employee of that applicant or licensee, and resident of a foster home who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, to determine whether the person investigated has been arrested for, has charges pending for or has been convicted of:

- (a) Murder, voluntary manslaughter or mayhem;
- (b) Any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon;
- (c) Assault with intent to kill or to commit sexual assault or mayhem;
- (d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime or a felony relating to prostitution;
- (e) Abuse or neglect of a child or contributory delinquency;
- (f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;
- (g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;
- (h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years;
- (i) Any offense relating to pornography involving minors, including, without limitation, a violation of any provision of NRS 200.700 to 200.760, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct;
- (j) Prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punishable as a misdemeanor, within the immediately preceding 7 years;
- (k) A crime involving domestic violence that is punishable as a felony;
- (l) A crime involving domestic violence that is punishable as a misdemeanor, within the immediately preceding 7 years;
- (m) A criminal offense under the laws governing Medicaid or Medicare, within the immediately preceding 7 years;
- (n) Any offense involving the sale, furnishing, purchase, consumption or possession of alcoholic beverages by a minor including, without limitation, a violation of any provision of NRS 202.015 to 202.067, inclusive, or driving a vehicle under the influence of alcohol or a controlled substance in violation of chapter 484C of NRS or a law of any other jurisdiction that prohibits the same or similar conduct, within the immediately preceding 7 years; or
- (o) An attempt or conspiracy to commit any of the offenses listed in this subsection within the immediately preceding 7 years.

2. ***A licensing authority or a person or entity designated by the licensing authority may conduct an investigation of the background and personal history of a person who is 18 years of age or older who routinely supervises a child in a foster home in the same manner as described in subsection 1.***

3. The licensing authority or its approved designee may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

~~{3.}~~ 4. Unless a preliminary Federal Bureau of Investigation Interstate Identification Index name-based check of the records of criminal history has been conducted pursuant to NRS 424.039, a person who is required to submit to an investigation pursuant to ~~{this section}~~ **subsection 1** shall not have contact with a child in a foster home without supervision before the investigation of the background and personal history of the person has been conducted.

~~{4.}~~ 5. The licensing authority or its designee ~~{shall}~~ :

(a) **Shall** conduct an investigation of each licensee, employee and resident pursuant to this section at least once every 5 years after the initial investigation ~~{}~~ ; and

(b) **May conduct an investigation of any person who is 18 years of age or older who routinely supervises a child in a foster home** ~~{not more than once every 5 years after the initial investigation.}~~ **at such times as it deems appropriate.**

Sec. 2. NRS 424.033 is hereby amended to read as follows:

424.033 1. Each applicant for a license to conduct a foster home, person who is licensed to conduct a foster home, employee of that applicant or licensee, ~~{or}~~ resident of a foster home who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, **or person who is 18 years of age or older who routinely supervises a child in a foster home for whom an investigation is conducted pursuant to** ~~{paragraph (b) of subsection 1}~~ **2 of NRS 424.031**, must submit to the licensing authority or its approved designee:

(a) A complete set of fingerprints and written permission authorizing the licensing authority or its approved designee to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report to enable the licensing authority or its approved designee to conduct an investigation pursuant to NRS 424.031; and

(b) Written permission to conduct a child abuse and neglect screening.

2. For each person who submits the documentation required pursuant to subsection 1, the licensing authority or its approved designee shall conduct a child abuse and neglect screening of the person in every state in which the person has resided during the immediately preceding 5 years.

3. The licensing authority or its approved designee may exchange with the Central Repository or the Federal Bureau of Investigation any information respecting the fingerprints submitted.

4. The Division shall assist the licensing authority of another state that is conducting a child abuse and neglect screening of a person who has resided in this State by providing information which is necessary to conduct the screening if the person who is the subject of the screening has signed a written permission authorizing the licensing authority to conduct a child abuse and neglect screening. The Division may charge a fee for providing such information in an amount which does not exceed the actual cost to the Division to provide the information.

5. When a report from the Federal Bureau of Investigation is received by the Central Repository, it shall immediately forward a copy of the report to the licensing authority or its approved designee.

6. Upon receiving a report pursuant to this section, the licensing authority or its approved designee shall determine whether the person has been convicted of a crime listed in NRS 424.031.

7. The licensing authority shall immediately inform the applicant for a license to conduct a foster home or the person who is licensed to conduct a foster home whether an employee or resident of the foster home , ***or any other person who is 18 years of age or older who routinely supervises a child in the foster home for whom an investigation was conducted pursuant to ~~paragraph (b) of~~ subsection ~~44~~ 2 of NRS 424.031,*** has been convicted of a crime listed in NRS 424.031. ***The information provided to the applicant for a license to conduct a foster home or the person who is licensed to conduct a foster home must not include specific information relating to any such conviction, including, without limitation, the specific crime for which the person was convicted.***

8. The licensing authority may deny an application for a license to operate a foster home or may suspend or revoke such a license if the licensing authority determines that the applicant or licensee has been convicted of a crime listed in NRS 424.031 or has failed to terminate an employee , ~~for~~ remove a resident of the foster home who is 18 years of age or older ~~and~~ ***or prevent a person for whom an investigation was conducted pursuant to ~~paragraph (b) of~~ subsection ~~44~~ 2 of NRS 424.031 from being present in the foster home, if such a person*** has been convicted of any crime listed in NRS 424.031.

Sec. 3. NRS 424.0335 is hereby amended to read as follows:

424.0335 1. Upon receiving information from the licensing authority or its designee pursuant to NRS 424.033 or evidence from any other source that an employee of an applicant for a license to conduct a foster home , ~~for~~ a person who is licensed to conduct a foster home or a resident of an applicant or licensee who is 18 years of age or older , ***or any other person who is 18 years of age or older who routinely supervises a child in a foster home for whom an investigation was conducted pursuant to ~~paragraph (b) of~~ subsection ~~44~~ 2 of NRS 424.031,*** has been convicted of a crime listed in NRS 424.031, the applicant or licensee shall terminate the employment of the employee , ~~for~~ remove the resident from the foster home ***or prevent the person who is 18 years of age or older who routinely supervises a child in the foster home from being present in the home*** after allowing the employee , ~~for~~ resident ***or other person*** time to correct the information as required pursuant to subsection 2.

2. If an employee , ~~for~~ resident ***or other person who is 18 years of age or older who routinely supervises a child in a foster home*** believes that the information provided pursuant to subsection 1 is incorrect, the employee , ~~for~~ resident ***or other person*** must inform the applicant or licensee immediately.

An applicant or licensee that is so informed shall give the employee , ~~for~~ resident **or other person** 30 days to correct the information.

3. During the period in which an employee , ~~for~~ resident **or other person who is 18 years of age or older who routinely supervises a child in a foster home** seeks to correct information pursuant to subsection 2, it is within the discretion of the applicant or licensee whether to allow the employee , ~~for~~ resident **or other person** to continue to work for , ~~for~~ reside at **or provide supervision of a child in** the foster home, as applicable, except that the employee , ~~for~~ resident **or other person** shall not have contact with a child in the foster home without supervision during any such period.

Sec. 4. ~~NRS 424.034 is hereby amended to read as follows:~~

~~424.034 1. Each applicant for a license to conduct a foster home and each person licensed to conduct a foster home shall maintain records of the information concerning its employees , [and] any residents of the foster home who are 18 years of age or older and any other person who is 18 years of age or older who routinely supervises a child in a foster home that is collected pursuant to NRS 424.031, 424.033 and 424.0335, including, without limitation:~~

~~— (a) A copy of the fingerprints that were submitted to the Central Repository for Nevada Records of Criminal History and a copy of the written authorization that was provided by the employee , [or] resident [;] or other person;~~

~~— (b) Proof that the fingerprints of the employee , [or] resident or other person were submitted to the Central Repository; and~~

~~— (c) Any other documentation of the information collected pursuant to NRS 424.031, 424.033 and 424.0335.~~

~~2. The records maintained pursuant to subsection 1 must be:~~

~~— (a) Maintained for the period of the employee's employment with [or] the foster home or the resident's presence at the foster home [;] or the period during which a person who is 18 years of age or older for whom an investigation was conducted pursuant to paragraph (b) of subsection 1 of NRS 424.031 continues to routinely supervise a child in the foster home; and~~

~~— (b) Made available for inspection by the licensing authority or its approved designee at any reasonable time, and copies thereof must be furnished to the licensing authority upon request.~~ **(Deleted by amendment.)**

Sec. 5. NRS 179A.075 is hereby amended to read as follows:

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

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

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

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

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 176.0913, to the Division. The information must be submitted to the Division:

- (a) Through an electronic network;
 - (b) On a medium of magnetic storage; or
 - (c) In the manner prescribed by the Director of the Department,
- ↪ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

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

- (a) Collect, maintain and arrange all information submitted to it relating to:
 - (1) Records of criminal history; and
 - (2) The DNA profile of a person from whom a biological specimen is obtained pursuant to NRS 176.09123 or 176.0913.
- (b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.
- (c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.
- (d) Upon request, provide, in paper or electronic form, the information that is contained in the Central Repository to a multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored by the Attorney General pursuant to NRS 228.495.

5. The Division may:

- (a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;
- (b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and
- (c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:
 - (1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;
 - (2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

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

(4) For whom such information is required **or authorized** to be obtained pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.123 and 449.4329; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

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

6. The Central Repository shall:

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

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

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

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

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

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

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

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

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

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

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

➡ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or

convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has fingerprints submitted pursuant to NRS 62B.270, 62G.223, 62G.353, 424.031, 432A.170, 432B.198, 433B.183, 449.122, 449.123 or 449.4329.

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

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

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

7. The Central Repository may:

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

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

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

8. As used in this section:

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

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

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

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

Sec. 6. This act becomes effective on July 1, 2015.

Assemblyman Oscarson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 280.

Bill read second time.

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

Amendment No. 489.

SUMMARY—Revises provisions relating to relations between local governments and certain public employees. (BDR 23-858)

AN ACT relating to relations between local governments and public employees; **authorizing the Local Government Employee-Management Relations Board to appoint a Deputy Commissioner;** providing for the expiration of collective bargaining agreements between local governments and employee organizations ~~that~~ **other than employee organizations that represent police officers;** authorizing a local government to choose not to negotiate with an employee organization ~~that~~ **other than an organization that represents police officers; making an appropriation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Local Government Employee-Management Relations Board administers the provisions governing labor relations between local government employers and employee organizations. (NRS 288.080, 288.110) The Board is authorized by existing law to appoint a Commissioner, who serves in the unclassified service of the State. (NRS 288.090) Section 3.7 of this bill additionally authorizes the Board to appoint a Deputy Commissioner, and section 15.5 of this bill makes an appropriation for that purpose.

Under existing law, a local government employer is required to bargain collectively with an employee organization concerning certain matters. In certain circumstances, if negotiations do not lead to an agreement, the parties may be subject to binding fact-finding or arbitration. (Chapter 288 of NRS) ~~This bill amends~~ **Sections 1.5-3 and 4-15 of this bill amend** the provisions governing collective bargaining to give a local government employer the option of choosing not to negotiate with ~~an~~ **certain** employee ~~organization~~ **organizations** and instead to prescribe terms and conditions of employment that are otherwise subject to mandatory bargaining.

Sections 2 and 15 of this bill provide that any collective bargaining agreement entered into pursuant to chapter 288 of NRS **, other than an**

agreement entered into with an employee organization that represents police officers, expires at the end of the term stated in the agreement, notwithstanding any provision of the agreement that the agreement remains in effect until a successor agreement becomes effective.

Existing law requires a local government employer to begin negotiations with an employee organization when notified by the employee organization of the organization's desire to negotiate. (NRS 288.180) ~~Section 5 [of this bill]~~ requires a local government employer to provide the employee organization, other than an employee organization that represents police officers, with written notice of whether the local government employer intends to negotiate with the employee organization. If the local government employer notifies the employee organization that it does not intend to negotiate, the local government employer may prescribe terms and conditions of employment that are otherwise subject to mandatory collective bargaining. If such an employer and the employee organization are operating under an existing collective bargaining agreement, ~~section 3 [of this bill]~~ provides that the terms and conditions become effective upon the expiration of the agreement. The local government employer and the employee organization or another recognized employee organization may subsequently agree to negotiate a collective bargaining agreement in accordance with chapter 288.

Under ~~section 5,~~ if the local government employer ~~[provides no]~~ fails to give timely notice that it does not intend to negotiate or provides notice that it intends to negotiate with the employee organization, or if the employee organization represents police officers, the parties must promptly begin negotiating and the existing provisions of chapter 288 govern the relationship of the parties.

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

Section 1. Chapter 288 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~1.5,~~ 2 and 3 of this act.

Sec. 1.5. *"Police officer" means a person who is a salaried employee of a police department or other law enforcement agency organized by a political subdivision of the State and whose principal duties are to enforce the law.*

Sec. 2. *A collective bargaining agreement negotiated pursuant to this chapter, other than a collective bargaining agreement negotiated with an employee organization that represents police officers, expires at the end of the term stated in the agreement, notwithstanding any provision of the agreement that the agreement remains effective, in whole or in part, after the end of that term until a successor agreement becomes effective.*

Sec. 3. 1. *If a collective bargaining agreement is in effect between a local government employer and an employee organization, other than an employee organization that represents police officers, and the local government employer gives notice pursuant to NRS 288.180 that it does not intend to negotiate with the employee organization:*

(a) The collective bargaining agreement remains in effect until it expires in accordance with section 2 of this act; and

(b) Any terms and conditions of employment prescribed by the local government employer for the employees governed by the collective bargaining agreement become effective upon the expiration of the agreement.

2. A local government employer that gives notice pursuant to NRS 288.180 that it does not intend to negotiate with an employee organization may at any time thereafter:

(a) Commence negotiations pursuant to this chapter in response to a notice given pursuant to NRS 288.180 by that employee organization or another recognized employee organization; or

(b) Give written notice to that employee organization or another recognized employee organization of the desire of the local government employer to negotiate concerning any matter which is subject to negotiation pursuant to this chapter.

Sec. 3.3. NRS 288.020 is hereby amended to read as follows:

288.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 288.025 to 288.075, inclusive, **and section 1.5 of this act** have the meanings ascribed to them in those sections.

Sec. 3.5. NRS 288.034 is hereby amended to read as follows:

288.034 “Commissioner” means the Commissioner **or a Deputy Commissioner** appointed by the Board.

Sec. 3.7. NRS 288.090 is hereby amended to read as follows:

288.090 1. The members of the Board shall annually elect one of their number as Chair and one as Vice Chair. Any two members of the Board constitute a quorum.

2. The Board may, within the limits of legislative appropriations and any other available money:

(a) Appoint a Commissioner, **a Deputy Commissioner** and a Secretary, who are in the unclassified service of the State; and

(b) Employ such additional clerical personnel as may be necessary, who are in the classified service of the State.

Sec. 3.9. NRS 288.140 is hereby amended to read as follows:

288.140 1. It is the right of every local government employee, subject to the limitations provided in subsections 3 and 4, to join any employee organization of the employee’s choice or to refrain from joining any employee organization. A local government employer shall not discriminate in any way among its employees on account of membership or nonmembership in an employee organization.

2. The recognition of an employee organization for negotiation, pursuant to this chapter, does not preclude any local government employee who is not a member of that employee organization from acting for himself or herself with respect to any condition of his or her employment, but any action taken

on a request or in adjustment of a grievance shall be consistent with the terms of an applicable negotiated agreement, if any.

3. A police officer ~~[-, sheriff, deputy sheriff or other law enforcement officer]~~ may be a member of an employee organization only if such employee organization is composed exclusively of law enforcement officers.

4. The following persons may not be a member of an employee organization:

(a) A supervisory employee described in paragraph (b) of subsection 1 of NRS 288.075, including but not limited to appointed officials and department heads who are primarily responsible for formulating and administering management, policy and programs.

(b) A doctor or physician who is employed by a local government employer.

(c) Except as otherwise provided in this paragraph, an attorney who is employed by a local government employer and who is assigned to a civil law division, department or agency. The provisions of this paragraph do not apply with respect to an attorney for the duration of a collective bargaining agreement to which the attorney is a party as of July 1, 2011.

5. As used in this section, "doctor or physician" means a doctor, physician, homeopathic physician, osteopathic physician, chiropractic physician, practitioner of Oriental medicine, podiatric physician or practitioner of optometry, as those terms are defined or used, respectively, in NRS 630.014, 630A.050, 633.091, chapter 634 of NRS, chapter 634A of NRS, chapter 635 of NRS or chapter 636 of NRS.

Sec. 4. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as provided in subsection 4 ~~to~~ **and NRS 288.180**, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

- (a) Salary or wage rates or other forms of direct monetary compensation.
- (b) Sick leave.
- (c) Vacation leave.
- (d) Holidays.
- (e) Other paid or unpaid leaves of absence.
- (f) Insurance benefits.
- (g) Total hours of work required of an employee on each workday or workweek.
- (h) Total number of days' work required of an employee in a work year.
- (i) Discharge and disciplinary procedures.
- (j) Recognition clause.
- (k) The method used to classify employees in the bargaining unit.

- (l) Deduction of dues for the recognized employee organization.
- (m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.
- (n) No-strike provisions consistent with the provisions of this chapter.
- (o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.
- (p) General savings clauses.
- (q) Duration of collective bargaining agreements.
- (r) Safety of the employee.
- (s) Teacher preparation time.
- (t) Materials and supplies for classrooms.
- (u) The policies for the transfer and reassignment of teachers.
- (v) Procedures for reduction in workforce consistent with the provisions of this chapter.
- (w) Procedures and requirements for the reopening of collective bargaining agreements that exceed 1 year in duration for additional, further, new or supplementary negotiations during periods of fiscal emergency. The requirements for the reopening of a collective bargaining agreement must include, without limitation, measures of revenue shortfalls or reductions relative to economic indicators such as the Consumer Price Index, as agreed upon by both parties.

3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

- (a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.
- (b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.
- (c) The right to determine:
 - (1) Appropriate staffing levels and work performance standards, except for safety considerations;
 - (2) The content of the workday, including without limitation workload factors, except for safety considerations;
 - (3) The quality and quantity of services to be offered to the public; and
 - (4) The means and methods of offering those services.
- (d) Safety of the public.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken

under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. This section does not preclude, but this chapter does not require, the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

7. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 4.5. NRS 288.170 is hereby amended to read as follows:

288.170 1. Each local government employer which has recognized one or more employee organizations shall determine, after consultation with the recognized organization or organizations, which group or groups of its employees constitute an appropriate unit or units for negotiating. The primary criterion for that determination must be the community of interest among the employees concerned.

2. A principal, assistant principal or other school administrator below the rank of superintendent, associate superintendent or assistant superintendent shall not be a member of the same bargaining unit with public school teachers unless the school district employs fewer than five principals but may join with other officials of the same specified ranks to negotiate as a separate bargaining unit.

3. A head of a department of a local government, an administrative employee or a supervisory employee must not be a member of the same bargaining unit as the employees under the direction of that department head, administrative employee or supervisory employee. Any dispute between the parties as to whether an employee is a supervisor must be submitted to the Board. An employee organization which is negotiating on behalf of two or more bargaining units consisting of firefighters, ~~for police officers,~~ as defined in NRS 288.215, **or police officers** may select members of the units to negotiate jointly on behalf of each other, even if one of the units consists of supervisory employees and the other unit does not.

4. Confidential employees of the local government employer must be excluded from any bargaining unit but are entitled to participate in any plan to provide benefits for a group that is administered by the bargaining unit of which they would otherwise be a member.

5. If any employee organization is aggrieved by the determination of a bargaining unit, it may appeal to the Board. Subject to judicial review, the decision of the Board is binding upon the local government employer and

employee organizations involved. The Board shall apply the same criterion as specified in subsection 1.

6. As used in this section:

(a) “Confidential employee” means an employee who is involved in the decisions of management affecting collective bargaining.

(b) “Supervisory employee” means a supervisory employee described in paragraph (a) of subsection 1 of NRS 288.075.

Sec. 5. NRS 288.180 is hereby amended to read as follows:

288.180 1. Whenever an employee organization desires to negotiate concerning any matter which is subject to negotiation pursuant to this chapter, it shall give written notice of that desire to the local government employer. If the subject of negotiation requires the budgeting of money by the local government employer, the employee organization shall give notice on or before February 1.

2. Following the notification provided for in subsection 1, the employee organization or the local government employer may request reasonable information concerning any subject matter included in the scope of mandatory bargaining which it deems necessary for and relevant to the negotiations. The information requested must be furnished without unnecessary delay. The information must be accurate, and must be presented in a form responsive to the request and in the format in which the records containing it are ordinarily kept. If the employee organization requests financial information concerning a metropolitan police department, the local government employers which form that department shall furnish the information to the employee organization.

3. ~~{The}~~ ***Not later than 15 days after the date of the notice provided for in subsection 2, 1, unless the employee organization that gives the notice represents police officers, the local government employer shall give written notice to the employee organization of whether the local government employer intends to negotiate with the employee organization pursuant to this chapter.***

4. ***Notwithstanding any other provision of law requiring or referring to negotiations or an agreement negotiated pursuant to this chapter, if the local government employer gives notice that it does not intend to negotiate with the employee organization, the local government employer is not required to negotiate any matter with the employee organization and may prescribe terms and conditions of employment for the employees represented by the employee organization, subject to the provisions of section 3 of this act.***

5. ***If the local government employer gives notice that it intends to negotiate with the employee organization or fails to give the notice described in subsection 4 within the time required by subsection 3, or if the employee organization that gives the notice provided for in subsection 1 represents police officers, the parties shall promptly commence negotiations. As the first step, the parties shall discuss the procedures to be followed if they are unable to agree on one or more issues.***

~~[4.]~~ 6. This section does not preclude, but this chapter does not require, informal discussion between an employee organization and a local government employer of any matter which is not subject to negotiation or contract under this chapter. Any such informal discussion is exempt from all requirements of notice or time schedule.

Sec. 6. NRS 288.190 is hereby amended to read as follows:

288.190 ~~Except~~ ***If a local government employer and an employee organization are negotiating pursuant to this chapter, and except*** in cases to which NRS 288.205 and 288.215 apply:

1. Anytime before March 1, the dispute may be submitted to a mediator, if both parties agree. Anytime after March 1, either party involved in negotiations may request a mediator. If the parties do not agree upon a mediator, the Commissioner shall submit to the parties a list of seven potential mediators. The parties shall select their mediator from the list by alternately striking one name until the name of only one mediator remains, who will be the mediator to hear the dispute. The employee organization shall strike the first name.

2. If mediation is agreed to or requested pursuant to subsection 1, the mediator must be selected at the time the parties agree upon a mediator or, if the parties do not agree upon a mediator, within 5 days after the parties receive the list of potential mediators from the Commissioner.

3. The mediator shall bring the parties together as soon as possible and, unless otherwise agreed upon by the parties, attempt to settle the dispute within 30 days after being notified of the mediator's selection as mediator. The mediator may establish the times and dates for meetings and compel the parties to attend but has no power to compel the parties to agree.

4. The local government employer and employee organization each shall pay one-half of the cost of mediation. Each party shall pay its own costs of preparation and presentation of its case in mediation.

5. If the dispute is submitted to a mediator and then submitted to a fact finder, the mediator shall, within 15 days after the last meeting between the parties, give to the Commissioner of the Board a report of the efforts made to settle the dispute.

Sec. 7. NRS 288.195 is hereby amended to read as follows:

288.195 Whenever an employee organization enters into negotiations with a local government employer, pursuant to NRS 288.140 to 288.220, inclusive, ***and sections 2 and 3 of this act***, such employee organization may be represented by an attorney licensed to practice law in the State of Nevada.

Sec. 8. NRS 288.200 is hereby amended to read as follows:

288.200 ~~Except~~ ***If a local government employer and an employee organization are negotiating pursuant to this chapter, and except*** in cases to which NRS 288.205 and 288.215, or ~~[NRS]~~ 288.217 apply:

1. If:

(a) The parties have failed to reach an agreement after at least six meetings of negotiations; and

(b) The parties have participated in mediation and by April 1, have not reached agreement,

↪ either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact finder for the findings and recommendations of the fact finder. The findings and recommendations of the fact finder are not binding on the parties except as provided in subsections 5, 6 and 11. The mediator of a dispute may also be chosen by the parties to serve as the fact finder.

2. If the parties are unable to agree on an impartial fact finder or a panel of neutral arbitrators within 5 days, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential fact finders. If the parties are unable to agree upon which arbitration service should be used, the Federal Mediation and Conciliation Service must be used. Within 5 days after receiving a list from the applicable arbitration service, the parties shall select their fact finder from this list by alternately striking one name until the name of only one fact finder remains, who will be the fact finder to hear the dispute in question. The employee organization shall strike the first name.

3. The local government employer and employee organization each shall pay one-half of the cost of fact-finding. Each party shall pay its own costs of preparation and presentation of its case in fact-finding.

4. A schedule of dates and times for the hearing must be established within 10 days after the selection of the fact finder pursuant to subsection 2, and the fact finder shall report the findings and recommendations of the fact finder to the parties to the dispute within 30 days after the conclusion of the fact-finding hearing.

5. The parties to the dispute may agree, before the submission of the dispute to fact-finding, to make the findings and recommendations on all or any specified issues final and binding on the parties.

6. If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 11 are to be final and binding. The determination must be made upon the concurrence of at least two members of the panel and not later than the date which is 30 days after the date on which the matter is submitted to the panel, unless that date is extended by the Commissioner of the Board. Each panel shall, when making its determination, consider whether the parties have bargained in good faith and whether it believes the parties can resolve any remaining issues. Any panel may also consider the actions taken by the parties in response to any previous fact-finding between these parties, the best interests of the State and all its citizens, the potential fiscal effect both within and outside the political subdivision, and any danger to the safety of the people of the State or a political subdivision.

7. Except as otherwise provided in subsection 10, any fact finder, whether the fact finder's recommendations are to be binding or not, shall base such recommendations or award on the following criteria:

(a) A preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Once the fact finder has determined in accordance with paragraph (a) that there is a current financial ability to grant monetary benefits, and subject to the provisions of paragraph (c), the fact finder shall consider, to the extent appropriate, compensation of other government employees, both in and out of the State and use normal criteria for interest disputes regarding the terms and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute and the fact finder shall consider whether the Board found that either party had bargained in bad faith.

(c) A consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multiyear contract, the fact finder must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➡ The fact finder's report must contain the facts upon which the fact finder based the fact finder's determination of financial ability to grant monetary benefits and the fact finder's recommendations or award.

8. Within 45 days after the receipt of the report from the fact finder, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues of the parties submitted pursuant to subsection 3;

(b) The report of findings and recommendations of the fact finder; and

(c) The overall fiscal impact of the findings and recommendations, which must not include a discussion of the details of the report.

➡ The fact finder must not be asked to discuss the decision during the meeting.

9. The chief executive officer of the local government shall report to the local government the fiscal impact of the findings and recommendations. The report must include, without limitation, an analysis of the impact of the findings and recommendations on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

10. Any sum of money which is maintained in a fund whose balance is required by law to be:

(a) Used only for a specific purpose other than the payment of compensation to the bargaining unit affected; or

(b) Carried forward to the succeeding fiscal year in any designated amount, to the extent of that amount,

↪ must not be counted in determining the financial ability of a local government employer and must not be used to pay any monetary benefits recommended or awarded by the fact finder.

11. The issues which may be included in a panel's order pursuant to subsection 6 are:

(a) Those enumerated in subsection 2 of NRS 288.150 as the subjects of mandatory bargaining, unless precluded for that year by an existing collective bargaining agreement between the parties; and

(b) Those which an existing collective bargaining agreement between the parties makes subject to negotiation in that year.

↪ This subsection does not preclude the voluntary submission of other issues by the parties pursuant to subsection 5.

Sec. 9. NRS 288.215 is hereby amended to read as follows:

288.215 1. As used in this section ~~+~~

~~(a) "Firefighters"~~, **"firefighters"** means those persons who are salaried employees of a fire prevention or suppression unit organized by a political subdivision of the State and whose principal duties are controlling and extinguishing fires.

~~((b) "Police officers" means those persons who are salaried employees of a police department or other law enforcement agency organized by a political subdivision of the State and whose principal duties are to enforce the law.)~~

2. The provisions of this section apply only to ~~firefighters and police officers and their~~ local government employers ~~+~~ **and only if a local government employer and an employee organization representing firefighters or police officers are** employee organizations representing:

(a) Police officers; and

(b) If the local government employer is negotiating pursuant to this chapter ~~+~~, firefighters.

3. If the parties have not agreed to make the findings and recommendations of the fact finder final and binding upon all issues, and do not otherwise resolve their dispute, they shall, within 10 days after the fact finder's report is submitted, submit the issues remaining in dispute to an arbitrator who must be selected in the manner provided in NRS 288.200 and have the same powers provided for fact finders in NRS 288.210.

4. The arbitrator shall, within 10 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearings must be held in the county in which the local government employer is located and the arbitrator shall arrange for a full and complete record of the hearings.

5. At the hearing, or at any subsequent time to which the hearing may be adjourned, information may be presented by:

- (a) The parties to the dispute; or
- (b) Any interested person.

6. The parties to the dispute shall each pay one-half of the costs incurred by the arbitrator.

7. A determination of the financial ability of a local government employer must be based on:

(a) All existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➡ Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, the arbitrator shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.

8. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearings for a period of 3 weeks. An agreement by the parties is final and binding, and upon notification to the arbitrator, the arbitration terminates.

9. If the parties do not enter into negotiations or do not agree within 30 days, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

10. The arbitrator shall, within 10 days after the final offers are submitted, accept one of the written statements, on the basis of the criteria provided in NRS 288.200, and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract.

11. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's reason for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

12. Within 45 days after the receipt of the decision from the arbitrator pursuant to subsection 10, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 3;

(b) The statement of the arbitrator pursuant to subsection 11; and

(c) The overall fiscal impact of the decision, which must not include a discussion of the details of the decision.

➡ The arbitrator must not be asked to discuss the decision during the meeting.

13. The chief executive officer of the local government shall report to the local government the fiscal impact of the decision. The report must include,

without limitation, an analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

Sec. 10. NRS 288.217 is hereby amended to read as follows:

288.217 1. The provisions of this section govern negotiations between school districts and employee organizations representing teachers and educational support personnel ~~if a school district and such an employee organization are negotiating pursuant to this chapter.~~

2. If the parties to a negotiation pursuant to this section have failed to reach an agreement after at least four sessions of negotiation, either party may declare the negotiations to be at an impasse and, after 5 days' written notice is given to the other party, submit the issues remaining in dispute to an arbitrator. The arbitrator must be selected in the manner provided in subsection 2 of NRS 288.200 and has the powers provided for fact finders in NRS 288.210.

3. The arbitrator shall, within 30 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearing must be held in the county in which the school district is located and the arbitrator shall arrange for a full and complete record of the hearing.

4. The parties to the dispute shall each pay one-half of the costs of the arbitration.

5. A determination of the financial ability of a school district must be based on:

(a) All existing available revenues as established by the school district and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the school district to provide an education to the children residing within the district.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➡ Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, the arbitrator shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.

6. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearing for a period of 3 weeks. If an agreement is reached, it must be submitted to the arbitrator, who shall certify it as final and binding.

7. If the parties do not enter into negotiations or do not agree within 30 days after the hearing held pursuant to subsection 3, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

8. The arbitrator shall, within 10 days after the final offers are submitted, render a decision on the basis of the criteria set forth in NRS 288.200. The arbitrator shall accept one of the written statements and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract between the parties.

9. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's reason for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

10. Within 45 days after the receipt of the decision from the arbitrator, the board of trustees of the school district shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 2;

(b) The statement of the arbitrator pursuant to subsection 9; and

(c) The overall fiscal impact of the decision which must not include a discussion of the details of the decision.

➡ The arbitrator must not be asked to discuss the decision during the meeting.

11. The superintendent of the school district shall report to the board of trustees the fiscal impact of the decision. The report must include, without limitation, an analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

12. As used in this section:

(a) "Educational support personnel" means all classified employees of a school district, other than teachers, who are represented by an employee organization.

(b) "Teacher" means an employee of a school district who is licensed to teach in this State and who is represented by an employee organization.

Sec. 11. NRS 288.270 is hereby amended to read as follows:

288.270 1. It is a prohibited practice for a local government employer or its designated representative willfully to:

(a) Interfere, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

(b) Dominate, interfere or assist in the formation or administration of any employee organization.

(c) Discriminate in regard to hiring, tenure or any term or condition of employment to encourage or discourage membership in any employee organization.

(d) Discharge or otherwise discriminate against any employee because the employee has signed or filed an affidavit, petition or complaint or given any information or testimony under this chapter, or because the employee has formed, joined or chosen to be represented by any employee organization.

(e) Refuse ~~If the local government employer has provided notice to an employee organization pursuant to NRS 288.180 that it intends to negotiate with the employee organization, refuse~~ to bargain collectively in good faith with the exclusive representative ~~[as required in NRS 288.150.]~~ if bargaining is required by this chapter. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter.

(f) Discriminate because of race, color, religion, sex, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.

(g) Fail to provide the information required by NRS 288.180.

2. It is a prohibited practice for a local government employee or for an employee organization or its designated agent willfully to:

(a) Interfere with, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

(b) Refuse ~~If a local government employer has provided notice to an employee organization pursuant to NRS 288.180 that it intends to negotiate with the employee organization, refuse~~ to bargain collectively in good faith with the local government employer, if ~~it~~ the employee organization is an exclusive representative ~~[as required in NRS 288.150.]~~ and bargaining is required by this chapter. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter.

(c) Discriminate because of race, color, religion, sex, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.

(d) Fail to provide the information required by NRS 288.180.

Sec. 12. NRS 386.595 is hereby amended to read as follows:

386.595 1. All employees of a charter school shall be deemed public employees.

2. The governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the governing body may make all employment decisions with regard to its employees pursuant to NRS 391.311 to 391.3197, inclusive, unless a collective bargaining agreement entered into by the governing body pursuant to chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.

3. Upon the request of the governing body of a charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the

school district and any disciplinary action taken by the school district against the licensed employee.

4. Except as otherwise provided in this subsection, if the written charter of a charter school is revoked or a charter contract is terminated, as applicable, or if a charter school ceases to operate as a charter school, the licensed employees of the charter school must be reassigned to employment within the school district in accordance with ~~the~~ **any** applicable collective bargaining agreement. A school district is not required to reassign a licensed employee of a charter school pursuant to this subsection if the employee:

(a) Was not granted a leave of absence by the school district to accept employment at the charter school pursuant to subsection 5;

(b) Was granted a leave of absence by the school district and did not submit a written request to return to employment with the school district in accordance with subsection 5; or

(c) Does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school.

5. The board of trustees of a school district shall grant a leave of absence, not to exceed 3 years, to any licensed employee who is employed by the board of trustees who requests such a leave of absence to accept employment with a charter school. After the first school year in which a licensed employee is on a leave of absence, the employee may return to a comparable teaching position with the board of trustees. After the third school year, a licensed employee shall either submit a written request to return to a comparable teaching position or resign from the position for which the employee's leave was granted. The board of trustees shall grant a written request to return to a comparable position pursuant to this subsection even if the return of the licensed employee requires the board of trustees to reduce the existing workforce of the school district. The board of trustees is not required to accept the return of the licensed employee if the employee does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school. The board of trustees may require that a request to return to a comparable teaching position submitted pursuant to this subsection be submitted at least 90 days before the employee would otherwise be required to report to duty.

6. Upon the request of the board of trustees of a school district, the governing body of a charter school shall, with the permission of the licensed employee who is granted a leave of absence from the school district pursuant to this section, transmit to the school district a copy of the employment record of the employee that is maintained by the charter school before the return of the employee to employment with the school district pursuant to subsection 4 or 5. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the charter school and any disciplinary

action taken by the charter school against the licensed employee. Before the return of the licensed employee, the board of trustees of the school district may conduct an investigation into any misconduct of the licensed employee during the leave of absence from the school district and take any appropriate disciplinary action as to the status of the person as an employee of the school district, including, without limitation:

(a) The dismissal of the employee from employment with the school district; or

(b) Upon the employee's return to employment with the school district, documentation of the disciplinary action taken against the employee into the employment record of the employee that is maintained by the school district.

7. If a school district conducts an investigation pursuant to subsection 6:

(a) The licensed employee is not entitled to return to employment with the school district until the investigation is complete; and

(b) The investigation must be conducted within a reasonable time.

8. A licensed employee who is on a leave of absence from a school district pursuant to this section:

(a) Shall contribute to and be eligible for all benefits for which the employee would otherwise be entitled, including, without limitation, participation in the Public Employees' Retirement System and accrual of time for the purposes of leave and retirement.

(b) Continues, while the employee is on leave, to be covered by the collective bargaining agreement of the school district, **if any**, only with respect to any matter relating to his or her status or employment with the district.

↪ The time during which such an employee is on a leave of absence and employed in a charter school does not count toward the acquisition of permanent status with the school district.

9. Upon the return of a teacher to employment in the school district, the teacher is entitled to the same level of retirement, salary and any other benefits to which the teacher would otherwise be entitled if the teacher had not taken a leave of absence to teach in a charter school.

10. An employee of a charter school who is not on a leave of absence from a school district is eligible for all benefits for which the employee would be eligible for employment in a public school, including, without limitation, participation in the Public Employees' Retirement System.

11. For all employees of a charter school:

(a) The compensation that a teacher or other school employee would have received if he or she were employed by the school district must be used to determine the appropriate levels of contribution required of the employee and employer for purposes of the Public Employees' Retirement System.

(b) The compensation that is paid to a teacher or other school employee that exceeds the compensation that the employee would have received if he or she were employed by the school district must not be included for the purposes of calculating future retirement benefits of the employee.

12. If the board of trustees of a school district in which a charter school is located manages a plan of group insurance for its employees, the governing body of the charter school may negotiate with the board of trustees to participate in the same plan of group insurance that the board of trustees offers to its employees. If the employees of the charter school participate in the plan of group insurance managed by the board of trustees, the governing body of the charter school shall:

(a) Ensure that the premiums for that insurance are paid to the board of trustees; and

(b) Provide, upon the request of the board of trustees, all information that is necessary for the board of trustees to provide the group insurance to the employees of the charter school.

Sec. 13. NRS 391.160 is hereby amended to read as follows:

391.160 1. The salaries of teachers and other employees must be determined by the character of the service required. A school district shall not discriminate between male and female employees in the matter of salary.

2. Each year when determining the salary of a teacher who holds certification issued by the National Board for Professional Teaching Standards, a school district shall add 5 percent to the salary that the teacher would otherwise receive in 1 year for the teacher's classification on the schedule of salaries for the school district if:

(a) On or before January 31 of the school year, the teacher has submitted evidence satisfactory to the school district of his or her current certification; and

(b) The teacher is assigned by the school district to provide classroom instruction during that school year.

↪ No increase in salary may be given pursuant to this subsection during a particular school year to a teacher who submits evidence of certification after January 31 of that school year. For the first school year that a teacher submits evidence of his or her current certification, the board of trustees of the school district to whom the evidence was submitted shall pay the increase in salary required by this subsection retroactively to the beginning of that school year. Once a teacher has submitted evidence of such certification to the school district, the school district shall retain the evidence in its records, as applicable, for future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the teacher may otherwise be entitled.

3. Each year when determining the salary of a person who is employed by a school district as a speech pathologist, the school district shall add 5 percent to the salary that the employee would otherwise receive in 1 year for the employee's classification on the schedule of salaries for the school district if:

(a) On or before September 15 of the school year, the employee has submitted evidence satisfactory to the school district of the employee's:

(1) Licensure as a speech pathologist by the Board of Examiners for Audiology and Speech Pathology; and

(2) Certification as being clinically competent in speech-language pathology by:

(I) The American Speech-Language-Hearing Association; or

(II) A successor organization to the American Speech-Language-Hearing Association that is recognized and determined to be acceptable by the Board of Examiners for Audiology and Speech Pathology; and

(b) The employee is assigned by the school district to serve as a speech pathologist during the school year.

➡ No increase in salary may be given pursuant to this subsection during a particular school year to an employee who submits evidence of licensure and certification after September 15 of that school year. Once an employee has submitted evidence of such licensure and certification to the school district, the school district shall retain the evidence in its records, as applicable, for future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the employee may otherwise be entitled.

4. Each year when determining the salary of a person who is employed by a school district as a professional school library media specialist, the school district shall add 5 percent to the salary that the employee would otherwise receive in 1 year for the employee's classification on the schedule of salaries of the school district if:

(a) On or before September 15 of the school year, the employee has submitted evidence satisfactory to the school district of the employee's current certification as a professional school library media specialist issued by the National Board for Professional Teaching Standards; and

(b) The employee is assigned by the school district to serve as a professional school library media specialist during that school year.

➡ No increase in salary may be given pursuant to this subsection during a particular school year to an employee who submits evidence of certification after September 15 of that school year. Once an employee has submitted evidence of such certification to the school district, the school district shall retain the evidence in its records, as applicable, for future school years. An increase in salary given in accordance with this subsection is in addition to any other increase to which the employee may otherwise be entitled.

5. In determining the salary of a licensed teacher who is employed by a school district after the teacher has been employed by another school district in this State, the present employer shall, except as otherwise provided in subsection 8:

(a) Give the teacher the same credit for previous teaching service as the teacher was receiving from the teacher's former employer at the end of his or her former employment;

(b) Give the teacher credit for the teacher's final year of service with his or her former employer, if credit for that service is not included in credit given pursuant to paragraph (a); and

(c) Place the teacher on the schedule of salaries of the school district in a classification that is commensurate with the level of education acquired by the teacher, as set forth in ~~the~~ **any** applicable negotiated agreement with the present employer.

6. A school district may give the credit required by subsection 5 for previous teaching service earned in another state if the Commission has approved the standards for licensing teachers of that state. The Commission shall adopt regulations that establish the criteria by which the Commission will consider the standards for licensing teachers of other states for the purposes of this subsection. The criteria may include, without limitation, whether the Commission has authorized reciprocal licensure of educational personnel from the state under consideration.

7. In determining the salary of a licensed administrator, other than the superintendent of schools, who is employed by a school district after the administrator has been employed by another school district in this State, the present employer shall, except as otherwise provided in subsection 8:

(a) Give the administrator the same credit for previous administrative service as the administrator was receiving from the administrator's former employer, at the end of his or her former employment;

(b) Give the administrator credit for the administrator's final year of service with his or her former employer, if credit for that service is not otherwise included in the credit given pursuant to paragraph (a); and

(c) Place the administrator on the schedule of salaries of the school district in a classification that is comparable to the classification the administrator had attained on the schedule of salaries of the administrator's former employer.

8. This section does not:

(a) Require a school district to allow a teacher or administrator more credit for previous teaching or administrative service than the maximum credit for teaching or administrative experience provided for in the schedule of salaries established by it for its licensed personnel.

(b) Permit a school district to deny a teacher or administrator credit for his or her previous teaching or administrative service on the ground that the service differs in kind from the teaching or administrative experience for which credit is otherwise given by the school district.

9. As used in this section:

(a) "Previous administrative service" means the total of:

(1) Any period of administrative service for which an administrator received credit from the administrator's former employer at the beginning of his or her former employment; and

(2) The administrator's period of administrative service in his or her former employment.

(b) "Previous teaching service" means the total of:

(1) Any period of teaching service for which a teacher received credit from the teacher's former employer at the beginning of his or her former employment; and

(2) The teacher's period of teaching service in his or her former employment.

Sec. 14. NRS 391.180 is hereby amended to read as follows:

391.180 1. As used in this section, "employee" means any employee of a school district or charter school in this State.

2. A school month in any public school in this State consists of 4 weeks of 5 days each.

3. Nothing contained in this section prohibits the payment of employees' compensation in 12 equal monthly payments for 9 or more months' work.

4. The per diem deduction from the salary of an employee because of absence from service for reasons other than those specified in this section is that proportion of the yearly salary which is determined by the ratio between the duration of the absence and the total number of contracted workdays in the year.

5. Boards of trustees shall either prescribe by regulation or negotiate pursuant to chapter 288 of NRS, with respect to sick leave, accumulation of sick leave, payment for unused sick leave, sabbatical leave, personal leave, professional leave, military leave and such other leave as they determine to be necessary or desirable for employees. In addition, boards of trustees may either prescribe by regulation or negotiate pursuant to chapter 288 of NRS with respect to the payment of unused sick leave to licensed teachers in the form of purchase of service pursuant to subsection 4 of NRS 286.300. The amount of service so purchased must not exceed the number of hours of unused sick leave or 1 year, whichever is less.

6. The salary of any employee unavoidably absent because of personal illness or accident, or because of serious illness, accident or death in the family, may be paid up to the number of days of sick leave accumulated by the employee. An employee may not be credited with more than 15 days of sick leave in any 1 school year. Except as otherwise provided in this subsection, if an employee takes a position with another school district or charter school, all sick leave that the employee has accumulated must be transferred from the employee's former school district or charter school to his or her new school district or charter school. The amount of sick leave so transferred may not exceed the maximum amount of sick leave which may be carried forward from one year to the next according to ~~the~~ **any** applicable negotiated agreement or the policy of the district or charter school into which the employee transferred. Unless ~~the~~ **any** applicable negotiated agreement or policy of the employing district or charter school provides otherwise, such an employee:

(a) Shall first use the sick leave credited to the employee from the district or charter school into which the employee transferred before using any of the transferred leave; and

(b) Is not entitled to compensation for any sick leave transferred pursuant to this subsection.

7. Subject to the provisions of subsection 8:

(a) If an intermission of less than 6 days is ordered by the board of trustees of a school district or the governing body of a charter school for any good reason, no deduction of salary may be made therefor.

(b) If, on account of sickness, epidemic or other emergency in the community, a longer intermission is ordered by the board of trustees of a school district, the governing body of a charter school or a board of health and the intermission or closing does not exceed 30 days at any one time, there may be no deduction or discontinuance of salaries.

8. If the board of trustees of a school district or the governing body of a charter school orders an extension of the number of days of school to compensate for the days lost as the result of an intermission because of those reasons contained in paragraph (b) of subsection 7, an employee may be required to render his or her services to the school district or charter school during that extended period. If the salary of the employee was continued during the period of intermission as provided in subsection 7, the employee is not entitled to additional compensation for services rendered during the extended period.

9. If any subject referred to in this section is included in an agreement or contract negotiated by:

(a) The board of trustees of a school district pursuant to chapter 288 of NRS; or

(b) The governing body of a charter school pursuant to NRS 386.595, ➔ the provisions of the agreement or contract regarding that subject supersede any conflicting provisions of this section or of a regulation of the board of trustees.

Sec. 15. 1. Any collective bargaining agreement other than a collective bargaining agreement entered into with an employee organization that represents police officers, that is entered into pursuant to chapter 288 of NRS and effective on July 1, 2015, expires at the end of the term stated in the agreement, notwithstanding any provision of the agreement that the agreement remains in effect, in whole or in part, after the end of that term until a successor agreement becomes effective.

2. As used in this section, “police officer” has the meaning ascribed to it in section 1.5 of this act.

Sec. 15.5. 1. There is hereby appropriated from the State General Fund to the Local Government Employee-Management Relations Board the sum of \$300,000 for the purpose of employing a Deputy Commissioner pursuant to NRS 288.090, as amended by section 3.7 of this act.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2017, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 15, 2017, by either the entity to which the money was appropriated or the entity to which the money was subsequently

granted or transferred, and must be reverted to the State General Fund on or before September 15, 2017.

Sec. 16. This act becomes effective on July 1, 2015.

Assemblyman Ellison moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 281.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 545.

SUMMARY—~~[Revises provisions relating to certain criminal offenses involving vehicles.]~~ **Creates a statutory subcommittee of the Advisory Commission on the Administration of Justice.** (BDR ~~[43-243]~~ **14-243**)

AN ACT relating to ~~[vehicles; providing that violations of certain traffic laws and ordinances must be treated as civil matters; providing that violations of certain laws relating to drivers' licenses, the registration of motor vehicles and insurance on motor vehicles must be treated as civil matters; establishing procedures for the imposition of civil penalties for violations of certain traffic laws and certain laws relating to vehicles;]~~ **the criminal justice system; creating a statutory subcommittee of the Advisory Commission on the Administration of Justice; revising the duties of the Advisory Commission to include the evaluation of certain laws relating to traffic laws and certain laws relating to motor vehicles;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law provides that a violation of any traffic law or ordinance is a misdemeanor, unless a different penalty is prescribed by a different statute. (NRS 484A.900) Existing law further provides that a county or an incorporated city may enact ordinances imposing civil penalties for violations of certain ordinances enacted by the county or incorporated city. (NRS 244.3575, 268.019) Sections 12-23 and 39 of this bill enact provisions based on Arizona law to provide for the imposition of civil penalties rather than criminal penalties for violations of certain traffic laws and ordinances. Under sections 19 and 39: (1) the maximum civil penalty that may be imposed for a violation of a traffic law or ordinance punishable by a civil penalty is \$250, unless a different amount is specified by statute; and (2) the judgment imposing the civil penalty must include the administrative assessments currently imposed for violations of traffic laws and ordinances.]~~

~~Existing law provides that any violation of state law regarding drivers' licenses or the registration of motor vehicles is a misdemeanor, unless a statute specifies a different penalty. (NRS 482.555, 483.620) Sections 1-4, 9 and 10 of this bill enact provisions based on Arizona law to provide that a person who: (1) operates, or knowingly permits the operation of, a motor vehicle in this State without current registration and license plates is subject to a civil penalty~~

~~rather than the penalty for a misdemeanor; (2) fails to register his or her motor vehicle in this State within a certain period after becoming a resident of this State is subject to a civil penalty in the same amount as the criminal fine provided under existing law; or (3) does not obtain a driver's license in this State within a certain period after becoming a resident or drives a motor vehicle in this State without being the holder of a valid driver's license is subject to a civil penalty of not more than \$250 rather than the penalty for a misdemeanor, except that a person who drives a motor vehicle in this State when the person is disqualified from driving is guilty of a misdemeanor.~~

~~Existing law provides that a person commits a misdemeanor if he or she: (1) operates a motor vehicle registered or required to be registered in this State without having insurance; (2) operates, or knowingly permits the operation of, the motor vehicle without evidence of insurance in the vehicle; or (3) fails or refuses to surrender, upon demand, to a peace officer or an authorized representative of the Department of Motor Vehicles the evidence of insurance. (NRS 485.187) Section 37 of this bill enacts provisions based on Arizona law to provide that a person who commits these violations is subject to a civil penalty in the same amount as the criminal fine imposed under current law.~~

~~Existing law provides that it is unlawful for a person to violate a written promise to appear given to a peace officer upon the issuance of a traffic citation and that a warrant may issue upon a violation of a written promise to appear. (NRS 484A.670) Sections 18, 25 and 27 of this bill provide that a person who violates a written promise to appear given upon the issuance of a citation for a violation that is punishable by a civil penalty must have a judgment for the civil penalty entered against him or her and that a warrant must not be issued for the failure to appear. Sections 7 and 22 of this bill provide for the suspension of the driver's license of a person who fails to pay a civil penalty within the time prescribed by law.~~

~~Sections 5, 6 and 8 of this bill provide that, for the purposes of maintaining a person's driving record, the imposition of a civil penalty for a traffic violation is treated the same as a conviction for a traffic offense under existing law.~~

~~Sections 25, 26, 31 and 33-36 of this bill maintain the designation of certain traffic offenses as misdemeanors. Section 32 of this bill provides that a person who commits certain civil traffic violations in a road construction zone is subject to an additional civil penalty.~~

~~Sections 40-42 of this bill enact provisions to govern the jurisdiction and disposition of civil violations committed by juveniles.}~~

Section 47 of this bill creates the Subcommittee on Criminal and Civil Violations of Traffic Laws of the Advisory Commission on the Administration of Justice. Section 47 also: (1) requires the Chair of the Advisory Commission to appoint the members of the Subcommittee; (2) requires the Subcommittee to study issues relating to certain traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, and the treatment of violations of such laws

as criminal offenses or civil infractions; and (3) sets forth the salaries and per diem that members of the Subcommittee may receive.

Existing law directs the Advisory Commission to study certain elements of this State's criminal justice system. (NRS 176.0125) Section 49 of this bill requires the Advisory Commission to evaluate certain laws relating to criminal violations of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, and whether the State may treat such violations as civil matters.

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

Section 1. ~~{NRS 482.385 is hereby amended to read as follows:~~

~~482.385 1. Except as otherwise provided in subsections 5 and 7 and NRS 482.390 and 482.3961, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State:~~

~~—(a) For a period of not more than 30 days in the aggregate in any 1 calendar year; and~~

~~—(b) Notwithstanding the provisions of paragraph (a), during any period in which the owner is:~~

~~—(1) On active duty in the military service of the United States;~~

~~—(2) An out of state student;~~

~~—(3) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work study program for which the student earns academic credits from the college or university; or~~

~~—(4) A migrant or seasonal farm worker.~~

~~2. This section does not:~~

~~—(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.~~

~~—(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.~~

~~—(c) Require registration of a vehicle operated by a border state employee.~~

~~3. Except as otherwise provided in subsection 5, when a person, formerly a nonresident, becomes a resident of this State, the person shall:~~

~~—(a) Within 30 days after becoming a resident; or~~

~~—(b) At the time he or she obtains a driver's license, whichever occurs earlier, apply for the registration of each vehicle the person owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection.~~

~~—4. A citation may be issued pursuant to subsection 1, 3 or 5 only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. The Department shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of subsection 3 and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.~~

~~—5. Except as otherwise provided in this subsection and NRS 482.3961, a resident or nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter who engages in a trade, profession or occupation or accepts gainful employment in this State or who enrolls his or her children in a public school in this State shall, within 30 days after the commencement of such employment or enrollment, apply for the registration of each vehicle the person owns which is operated in this State. The provisions of this subsection do not apply to a nonresident who is:~~

~~—(a) On active duty in the military service of the United States;~~

~~—(b) An out-of-state student;~~

~~—(c) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work study program for which the student earns academic credits from the college or university; or~~

~~—(d) A migrant or seasonal farm worker.~~

~~—6. A [person who violates] violation of the provisions of subsection 1, 3 or 5 [is guilty of a misdemeanor] must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act and, except as otherwise provided in this subsection, a person who violates the provisions of subsection 1, 3 or 5 shall be punished by a [fine] civil penalty of \$1,000. The [fine] civil penalty imposed pursuant to this subsection is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested pursuant to subsection 4. The [fine] civil penalty imposed pursuant to this subsection may be reduced to not less than \$200 if the person presents evidence at the time of the hearing that the person has registered the vehicle pursuant to this chapter.~~

~~—7. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his or her continuous use within this State, shall cause that vehicle to be registered within 30 days after beginning its operation within this State.~~

~~—8. A person registering a vehicle pursuant to the provisions of subsection 1, 3, 5, 7 or 9 or pursuant to NRS 482.390:~~

~~—(a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and~~

~~—(b) Must not be allowed credit on those taxes and fees for the unused months of the previous registration.~~

~~—9. If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395, 482.3961 and 706.801 to 706.861, inclusive.~~

~~—10. An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.~~

~~—11. A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:~~

~~—(a) The owner of the vehicle is a resident of this State;~~

~~—(b) The vehicle is used in this State for a gainful purpose;~~

~~—(c) Except as otherwise provided in paragraph (b) of subsection 1, the owner of the vehicle is a nonresident and has operated the vehicle in this State for more than 30 days in the aggregate in any 1 calendar year; or~~

~~—(d) The owner of the vehicle is a nonresident required to register the vehicle pursuant to subsection 5.~~

~~—12. A constable may issue a citation for a violation of this section only if the vehicle is located in his or her township at the time the citation is issued.~~

~~—13. As used in this section, "peace officer" includes a constable.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 482.545 is hereby amended to read as follows:~~

~~—482.545 It is unlawful for any person to commit any of the following acts:~~

~~—1. To operate, or for the owner thereof knowingly to permit the operation of, upon a highway any motor vehicle, trailer or semitrailer which is not registered or which does not have attached thereto and displayed thereon the number of plate or plates assigned thereto by the Department for the current period of registration or calendar year, subject to the exemption allowed in NRS 482.316 to 482.3175, inclusive, 482.320 to 482.363, inclusive, 482.385 to 482.3965, inclusive, and 482.420. **A person who violates this subsection is subject to a civil penalty of not more than \$250 to be imposed pursuant to sections 12 to 22, inclusive, of this act.**~~

~~—2. To display, cause or permit to be displayed or to have in possession any certificate of registration, license plate, certificate of title, temporary placard, movement permit or other document of title knowing it to be fictitious or to have been cancelled, revoked, suspended or altered.~~

~~—3. To lend to, or knowingly permit the use of by, one not entitled thereto any registration card, plate, temporary placard or movement permit issued to the person so lending or permitting the use thereof.~~

~~4. To fail or to refuse to surrender to the Department, upon demand, any registration card or plate which has been suspended, cancelled or revoked as provided in this chapter.~~

~~5. To use a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in an application. A violation of this subsection is a gross misdemeanor.~~

~~6. Knowingly to operate a vehicle which:~~

~~(a) Has an identification number or mark which has been falsely attached, removed, defaced, altered or obliterated; or~~

~~(b) Contains a part which has an identification number or mark which has been falsely attached, removed, defaced, altered or obliterated.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 482.555 is hereby amended to read as follows:~~

~~482.555 1. In addition to any other penalty provided by this chapter:~~

~~(a) It is a gross misdemeanor for any person knowingly to falsify:~~

~~(1) A dealer's or rebuilder's report of sale, as described in NRS 482.423 and 482.424;~~

~~(2) An application or document to obtain any license, permit, certificate of title or vehicle registration issued under the provisions of this chapter; or~~

~~(3) An application or document to obtain a salvage title or nonrepairable vehicle certificate as defined in chapter 487 of NRS.~~

~~(b) [It] Except as otherwise provided in subsection 6 of NRS 482.385 and subsection 1 of NRS 482.545, it is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this section or other provision of this chapter or other law of this State declared to be a gross misdemeanor or a felony.~~

~~2. The provisions of this section do not apply to a violation of subsection 3 of NRS 482.367002.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 483.245 is hereby amended to read as follows:~~

~~483.245 1. When a person becomes a resident of Nevada as defined in this chapter and chapter 482 of NRS, the person must, within 30 days, obtain a Nevada driver's license as a prerequisite to driving any motor vehicle in the State of Nevada. A person who violates this subsection is subject to a civil penalty of not more than \$250 to be imposed pursuant to sections 12 to 22, inclusive, of this act.~~

~~2. Where a person who applies for a license has a valid driver's license from a state which has requirements for issuance of drivers' licenses comparable to those of the State of Nevada, the Department may issue a Nevada license under the same terms and conditions applicable to a renewal of a license in this State.~~

~~3. In carrying out the provisions of this chapter, the Administrator is authorized to enter into reciprocal agreements with appropriate officials of~~

~~other states concerning the licensing of drivers of motor vehicles.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 483.447 is hereby amended to read as follows:~~

~~483.447 A person who does not hold a valid license issued by this State or any other state and who operates a vehicle in this State shall be deemed to have future driving privileges that may be suspended if the person is convicted of any traffic offense in this State [.] or if a judgment for a civil penalty is entered against the person pursuant to sections 12 to 22, inclusive, of this act for any traffic offense in this State.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 483.450 is hereby amended to read as follows:~~

~~483.450 1. A record of conviction must be made in a manner approved by the Department. The court shall provide sufficient information to allow the Department to include accurately the information regarding the conviction in the driver's record.~~

~~2. The Department shall adopt regulations prescribing the information necessary to record the conviction in the driver's record.~~

~~3. Every court, including a juvenile court, having jurisdiction over violations of the provisions of NRS 483.010 to 483.630, inclusive, or any other law of this State or municipal ordinance regulating the operation of motor vehicles on highways, shall forward to the Department:~~

~~(a) If the court is other than a juvenile court, a record of the conviction of any person in that court for a violation of any such laws other than regulations governing standing or parking; or~~

~~(b) If the court is a juvenile court, a record of any finding that a child has violated a traffic law or ordinance other than one governing standing or parking;~~

~~*** within 5 days after the conviction or finding, and may recommend the suspension of the driver's license of the person convicted or child found in violation of a traffic law or ordinance.~~

~~4. If a record forwarded to the Department pursuant to subsection 3 is a record of the conviction of a person who holds a commercial driver's license, the Department shall, within 5 days after the date on which it receives such a record, transmit notice of the conviction to the Commercial Driver's License Information System.~~

~~5. For the purposes of NRS 483.010 to 483.630, inclusive:~~

~~(a) "Conviction" has the meaning prescribed by regulation pursuant to NRS 481.052 [.] and includes, without limitation, the entering of a judgment for a civil penalty pursuant to sections 12 to 22, inclusive, of this act.~~

~~(b) A forfeiture of bail or collateral deposited to secure a defendant's appearance in court, if the forfeiture has not been vacated, is equivalent to a conviction.~~

~~6. The necessary expenses of mailing records of conviction to the Department as required by this section must be paid by the court charged with the duty of forwarding those records of conviction.~~

~~7. As used in this section, "Commercial Driver's License Information System" has the meaning ascribed to it in NRS 483.904.] **(Deleted by amendment.)**~~

~~Sec. 7. [NRS 483.465 is hereby amended to read as follows:~~

~~483.465 1. If a driver who holds a Nevada driver's license [violates]:~~

~~**(a) Fails to pay a civil penalty or any administrative assessment imposed pursuant to sections 12 to 22, inclusive, of this act within the time required by section 22 of this act, other than for a violation of a traffic law or ordinance occurring within this State governing standing or parking; or**~~

~~**(b) Violates a written promise to appear pursuant to a citation that was prepared manually or electronically for a violation of a traffic law or ordinance punishable as a misdemeanor and occurring within this State other than one governing standing or parking;**~~

~~the clerk of the court shall immediately notify the Department on a form approved by the Department.~~

~~2. Upon receipt of notice from a court in this State of a failure to appear, the Department shall notify the driver by mail that his or her privilege to drive is subject to suspension and allow 30 days after the date of mailing the notice to:~~

~~**(a) Appear in court and obtain a dismissal of the citation or complaint as provided by law;**~~

~~**(b) Appear in court and, if permitted by the court, make an arrangement acceptable to the court to satisfy a judgment of conviction [;] or a judgment for a civil penalty and administrative assessments entered pursuant to sections 12 to 22, inclusive, of this act;**~~

~~**(c) Pay the civil penalty and administrative assessments imposed pursuant to sections 12 to 22, inclusive, of this act; or**~~

~~**(d) Make a written request to the Department for a hearing.**~~

~~3. If notified by a court, within 30 days after the notice of a failure to appear, that a driver has been allowed to make an arrangement for the satisfaction of a judgment of conviction [;] or a judgment for a civil penalty and administrative assessments entered pursuant to sections 12 to 22, inclusive, of this act, the Department shall remove the suspension from the driver's record. If the driver subsequently defaults on the arrangement with the court, the court shall notify the Department which shall immediately suspend the driver's license until the court notifies the Department that the suspension may be removed.~~

~~4. The Department shall suspend the license of a driver 31 days after it mails the notice provided for in subsection 2 to the driver, unless within that time it has received a written request for a hearing from the driver or notice from the court on a form approved by the Department that the driver has appeared, [or] the citation or complaint has been dismissed [;] or the civil penalty and administrative assessments imposed pursuant to sections 12 to 22, inclusive, of this act have been paid. A license so suspended remains suspended until further notice is received from the court that the driver has~~

~~appeared or that the case has been otherwise disposed of as provided by law.]~~
(Deleted by amendment.)

Sec. 8. ~~[NRS 483.473 is hereby amended to read as follows:~~

~~483.473 1. As used in this section, “traffic violation” means conviction of a moving traffic violation, or the entering of a judgment for a civil penalty pursuant to sections 12 to 22, inclusive, of this act, in any municipal court, justice court or district court in this State. The term includes a finding by a juvenile court that a child has violated a traffic law or ordinance other than one governing standing or parking. The term does not include a conviction or a finding by a juvenile court of a violation of the speed limit posted by a public authority under the circumstances described in subsection 1 of NRS 484B.617.~~

~~2. The Department shall establish a uniform system of demerit points for various traffic violations occurring within this State affecting the driving privilege of any person who holds a driver’s license issued by the Department and persons deemed to have future driving privileges pursuant to NRS 483.447. The system must be based on the accumulation of demerits during a period of 12 months.~~

~~3. The system must be uniform in its operation, and the Department shall set up a schedule of demerits for each traffic violation, depending upon the gravity of the violation, on a scale of one demerit point for a minor violation of any traffic law to eight demerit points for an extremely serious violation of the law governing traffic violations. If a conviction of , or the entering of a judgment for a civil penalty for, two or more traffic violations committed on a single occasion is obtained, points must be assessed for one [offense,] violation, and if the point values differ, points must be assessed for the [offense] violation having the greater point value. Details of the violation must be submitted to the Department by the court where the conviction is obtained [.] or the judgment for the civil penalty is entered. The Department may provide for a graduated system of demerits within each category of violations according to the extent to which the traffic law was violated.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 483.550 is hereby amended to read as follows:~~

~~483.550 1. [It is unlawful for any] Except as otherwise provided in this subsection, a person [to drive] who drives a motor vehicle upon a public street or highway in this State without being the holder of a valid driver’s license [.] is subject to a civil penalty of not more than \$250 to be imposed pursuant to sections 12 to 22, inclusive, of this act. A person who drives a motor vehicle upon a public street or highway in this State when the person is disqualified from driving is guilty of a misdemeanor.~~

~~2. The court shall [require] order any person [convicted of] upon whom a civil penalty is imposed for violating this section to obtain a valid driver’s license or produce a notice of disqualification from the Department.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 483.620 is hereby amended to read as follows:~~

~~483.620 [It] Except as otherwise provided in NRS 483.245 and 483.550, it is a misdemeanor for any person to violate any of the provisions of NRS 483.010 to 483.630, inclusive, unless such violation is, by NRS 483.010 to 483.630, inclusive, or other law of this State, declared to be a felony.]~~
(Deleted by amendment.)

Sec. 11. ~~[Chapter 484A of NRS is hereby amended by adding thereto the provisions set forth as sections 12 to 22, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 12. ~~[A violation of a provision of chapters 484A to 484E, inclusive, of NRS must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act, unless a provision of those chapters specifically provides that a particular violation is a misdemeanor, gross misdemeanor or felony.]~~ **(Deleted by amendment.)**

Sec. 13. ~~[1. Municipal courts and justice courts have concurrent jurisdiction over all violations of a provision of chapters 484A to 484E, inclusive, of NRS which must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act and which are committed within their boundaries by persons 18 years of age or older.~~

~~2. Municipal courts and justice courts have concurrent jurisdiction over civil traffic violations committed within their boundaries by persons under 18 years of age if the juvenile court has transferred the case pursuant to NRS 62B.380.]~~ **(Deleted by amendment.)**

Sec. 14. ~~[1. A case involving a civil traffic violation is commenced by the issuance or filing of a traffic citation pursuant to sections 12 to 22, inclusive, of this act.~~

~~2. Except as otherwise provided in this subsection, a case involving a civil traffic violation must be commenced within 60 days after the alleged violation of chapters 484A to 484E, inclusive, of NRS. Except as otherwise provided in this subsection, if an alleged violation of chapters 484A to 484E, inclusive, of NRS that must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act is under investigation in conjunction with a traffic accident, a case involving a civil traffic violation must be commenced within 180 days after the alleged violation. If an alleged violation of chapters 484A to 484E, inclusive, of NRS that must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act is under investigation in conjunction with a traffic accident resulting in death or substantial bodily harm of any person, the case involving a civil traffic violation must be commenced within 1 year after the alleged violation.~~

~~3. If a case involving a civil traffic violation is commenced by the filing of a traffic citation in a court having jurisdiction, the traffic citation must be served within 90 days after the filing date.]~~ **(Deleted by amendment.)**

Sec. 15. ~~[A traffic citation may be served by delivering a copy of the traffic citation to the person charged with the violation or by any means authorized by the Nevada Rules of Civil Procedure. At the discretion of the issuing traffic enforcement agency, a traffic citation issued after an~~

~~investigation in conjunction with a traffic accident may be sent by certified mail, return receipt requested and delivered to the addressee only, to the address provided by the person charged with the violation. Service of the traffic citation is complete on filing the receipt in the court having jurisdiction of the violation.] (Deleted by amendment.)~~

Sec. 16. ~~[A peace officer or a duly authorized member or volunteer of a traffic enforcement agency in this State who has reasonable cause to believe that a person has violated a provision of chapters 484A to 484E, inclusive, of NRS that must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act may stop and detain the person as is reasonably necessary to investigate the alleged violation and to issue a traffic citation for the alleged violation.] (Deleted by amendment.)~~

Sec. 17. ~~[1. When a person is halted by a peace officer or a duly authorized member or volunteer of a traffic enforcement agency in this State for any violation of chapters 484A to 484E, inclusive, of NRS that must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act, the peace officer, member or volunteer may prepare a traffic citation manually or electronically in the form of a complaint issuing in the name of "The State of Nevada," containing a notice to appear in court, the name and address of the person, the state registration number of the person's vehicle, if any, the number of the person's driver's license, if any, the violation alleged, including a brief description of the violation and the NRS citation, the time when and place where the person is required to appear in court, and such other pertinent information as may be necessary. The citation must be signed by the peace officer, member or volunteer. If the citation is prepared electronically, the officer, member or volunteer shall sign the copy of the citation that is delivered to the person charged with the violation.~~

~~—2. The time specified in the notice to appear must be at least 5 days after the alleged violation unless the person charged with the violation demands an earlier hearing.~~

~~—3. The place specified in the notice to appear must be before a magistrate, as designated in NRS 484A.750.~~

~~—4. The person charged with the violation may give his or her written promise to appear in court by signing at least one copy of the traffic citation prepared by the peace officer, member or volunteer, in which event the peace officer, member or volunteer shall deliver a copy of the citation to the person. If the citation is prepared electronically, the officer, member or volunteer shall deliver the signed copy of the citation to the person and shall indicate on the electronic record of the citation whether the person charged gave his or her written promise to appear. A copy of the citation that is signed by the person charged or the electronic record of the citation which indicates that the person charged gave his or her written promise to appear suffices as proof of service.] (Deleted by amendment.)~~

Sec. 18. ~~[1. A person served with a traffic citation for any violation of chapters 484A to 484E, inclusive, of NRS that must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act shall:~~

~~— (a) Appear at the time and place stated in the traffic citation; and~~

~~— (b) Admit or deny the allegations stated in the traffic citation. Allegations not denied at the time of appearance are deemed admitted.~~

~~— 2. If the allegations stated in the traffic citation are admitted, the court must enter judgment for the State and impose a civil penalty. In determining the civil penalty, the court shall consider the explanation submitted.~~

~~— 3. If the person served with the traffic citation denies the allegations stated in the traffic citation, the court must set the matter for a hearing. The hearing is informal and without a jury. At the hearing, the State is required to prove the violation charged by a preponderance of the evidence. Technical rules of evidence do not apply, except for statutory provisions relating to privileged communications. If the person elects to be represented by counsel, he or she must notify the court at least 10 days before the hearing date. If the court finds in favor of the person served with a traffic citation, the court must enter an order dismissing the traffic citation. If the court finds in favor of the State, the court must enter judgment for the State and impose a civil penalty for the violation.~~

~~— 4. The State and the person served with the traffic citation may subpoena witnesses as provided by NRS 174.305. Witnesses are not entitled to fees for appearing in connection with a case involving a civil traffic violation.~~

~~— 5. Except as otherwise provided in sections 12 to 22, inclusive, of this act, the rules of civil procedure do not apply to a case involving a civil traffic violation.~~

~~— 6. If a person served with a traffic citation for an alleged violation of chapters 484A to 484E, inclusive, of NRS that must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act fails to appear at the time directed to appear or at the time set for a hearing by the court, the court shall enter judgment for the State and impose a civil penalty for the violation.† (Deleted by amendment.)~~

Sec. 19. ~~[Except as otherwise provided by specific statute, a civil penalty imposed for a violation of chapters 484A to 484E, inclusive, of NRS that must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act must not exceed \$250. In addition to any civil penalty imposed pursuant to this section, the justice or judge shall include in the judgment imposing the civil penalty the sum prescribed for the administrative assessments set forth in NRS 176.059, 176.0611 and 176.0613 and the money collected for those administrative assessments must be applied and distributed in the manner set forth in those sections.] (Deleted by amendment.)~~

Sec. 20. ~~[An admission of the allegations contained in a traffic citation for an alleged violation of chapters 484A to 484E, inclusive, of NRS that must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of~~

~~this act is not evidence of negligence in a civil or criminal proceeding that is not authorized by chapters 484A to 484E, inclusive, of NRS.~~ (Deleted by amendment.)

Sec. 21. ~~[A party may appeal the judgment of a court imposing a civil penalty pursuant to sections 12 to 22, inclusive, of this act. The appeal may be to the district court in the same manner as any other civil appeal from a municipal court or justice court to the district court. The posting of an appeal bond stays enforcement of the judgment.]~~ (Deleted by amendment.)

Sec. 22. ~~[1.— Except as otherwise provided in this subsection, a person shall pay all civil penalties and administrative assessments imposed pursuant to sections 12 to 22, inclusive, of this act within 30 days after entry of the judgment imposing the civil penalty and administrative assessments. If the court finds that satisfaction of a judgment within 30 days will place an undue economic burden on a person, the court may extend the time for payment or may provide for installment payments. If the judgment is not satisfied within the time for payment prescribed by the court or if an installment payment is not paid when due, the court may declare the entire amount of the judgment due. If the court declares the entire amount of the judgment due, the clerk of the court must notify the Department pursuant to NRS 483.465.~~

~~—2.— If a civil penalty or administrative assessment imposed pursuant to sections 12 to 22, inclusive, of this act, or any part of it, remains unpaid after the time established by the court for its payment, the defendant is liable for a collection fee, to be imposed by the court at the time it finds that the civil penalty or administrative assessment is delinquent, of not more than \$100.~~

~~—3.— Notwithstanding the provisions of subsections 1 and 2, the court must not initiate collection procedures on an unsatisfied judgment for a civil penalty and administrative assessments imposed pursuant to sections 12 to 22, inclusive, of this act and the court clerk must not notify the Department pursuant to NRS 483.465 if:~~

~~—(a) The unsatisfied judgment is for a traffic violation for which the final disposition occurs more than 36 months before the court initiates collection proceedings;~~

~~—(b) The court does not have a paper or electronic record dated within 36 months after the traffic violation occurs indicating that the responsible person was notified that the judgment is unsatisfied and due;~~

~~—(c) The clerk of the court has not notified the Department pursuant to NRS 483.465; and~~

~~—(d) The court does not have a record of extending the time for satisfying the judgment or providing for installment payments.~~

~~—4.— If, pursuant to subsection 3, the court is prohibited from initiating collection procedures on an unsatisfied judgment or the clerk of the court is prohibited from notifying the Department pursuant to NRS 483.465, the clerk of the court must notify the Department and the Department must remove the violation from the person's driving record.]~~ (Deleted by amendment.)

Sec. 23. ~~[NRS 484A.400 is hereby amended to read as follows:~~

~~484A.400 1. The provisions of chapters 484A to 484E, inclusive, of NRS are applicable and uniform throughout this State on all highways to which the public has a right of access or to which persons have access as invitees or licensees.~~

~~2. Except as otherwise provided in [subsection] **subsections 3 and 4** and unless otherwise provided by specific statute, any local authority may enact by ordinance traffic regulations which cover the same subject matter as the various sections of chapters 484A to 484E, inclusive, of NRS if the provisions of the ordinance are not in conflict with chapters 484A to 484E, inclusive, of NRS, or regulations adopted pursuant thereto. It may also enact by ordinance regulations requiring the registration and licensing of bicycles.~~

~~3. **An ordinance enacting traffic regulations must provide for the imposition of a civil penalty for a violation of the ordinance if the ordinance covers the same subject matter as a provision of chapters 484A to 484E, inclusive, of NRS that must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act.**~~

~~4. A local authority shall not enact an ordinance:~~

~~(a) Governing the registration of vehicles and the licensing of drivers;~~

~~(b) Governing the duties and obligations of persons involved in traffic accidents, other than the duties to stop, render aid and provide necessary information;~~

~~(c) Providing a penalty for an offense for which the penalty prescribed by chapters 484A to 484E, inclusive, of NRS is greater than that imposed for a misdemeanor; or~~

~~(d) Requiring a permit for a vehicle, or to operate a vehicle, on a highway in this State.~~

~~[4.] 5. No person convicted or adjudged guilty or guilty but mentally ill of, **or found liable for a civil penalty for**, a violation of a traffic ordinance may be charged or tried in any other court in this State for the same offense.]~~

(Deleted by amendment.)

Sec. 24. ~~[NRS 484A.660 is hereby amended to read as follows:~~

~~484A.660 Except for felonies and those offenses set forth in paragraphs~~

~~(a) to (e), inclusive, of subsection 1 of NRS 484A.710, a peace officer at the scene of a traffic accident may issue a traffic citation, as provided in NRS 484A.630 [,**or sections 12 to 22, inclusive, of this act**, or a misdemeanor citation, as provided in NRS 171.1773, to any person involved in the accident when, based upon personal investigation, the peace officer has reasonable and probable grounds to believe that the person has committed any offense pursuant to the provisions of chapters 482 to 486, inclusive, or 706 of NRS in connection with the accident.] **(Deleted by amendment.)**~~

Sec. 25. ~~[NRS 484A.670 is hereby amended to read as follows:~~

~~484A.670 1. It is [unlawful] **a misdemeanor** for a person to violate a written promise to appear given to a peace officer upon the issuance of a traffic citation prepared manually or electronically [,**for an alleged violation that is**~~

~~punishable as a misdemeanor, regardless of the disposition of the charge for which the citation was originally issued.~~

~~2. Except as otherwise provided in this subsection, a person may comply with a written promise to appear in court by an appearance by counsel. A person who has been convicted of two or more moving traffic violations in unrelated incidents within a 12 month period and is subsequently arrested or issued a citation within that 12 month period shall appear personally in court with or without counsel.~~

~~3. A warrant may issue upon a violation of a written promise to appear [.] , unless the written promise to appear was given pursuant to a citation that must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 26. [NRS 484A.680 is hereby amended to read as follows:

~~484A.680 1. Every peace officer upon issuing a traffic citation to an alleged violator of any provision of the motor vehicle laws of this State or of any traffic ordinance of any city or town shall file manually or, if the provisions of subsection 2 are satisfied, file electronically the original or a copy of the traffic citation with a court having jurisdiction over the alleged offense or with its traffic violations bureau.~~

~~2. A copy of a traffic citation that is prepared electronically and issued to an alleged violator of any provision of the motor vehicle laws of this State or of any traffic ordinance of any city or town may be filed electronically with a court having jurisdiction over the alleged offense or with its traffic violations bureau if the court or traffic violations bureau, respectively:~~

~~(a) Authorizes such electronic filing;~~

~~(b) Has the ability to receive and store the citation electronically; and~~

~~(c) Has the ability to physically reproduce the citation upon request.~~

~~3. Upon the filing of the original or a copy of the traffic citation with a court having jurisdiction over the alleged offense or with its traffic violations bureau, the traffic citation may be disposed of only by trial in that court or other official action by a judge of that court, including forfeiture of the bail, or by the deposit of sufficient bail with, or payment of a fine to, the traffic violations bureau by the person to whom the traffic citation has been issued by the peace officer.~~

~~4. It is [unlawful] a misdemeanor and official misconduct for any peace officer or other officer or public employee to dispose of a traffic citation or copies of it or of the record of the issuance of a traffic citation in a manner other than as required in this section.~~

~~5. The chief administrative officer of every traffic enforcement agency shall require the return to him or her of a physical copy or electronic record of every traffic citation issued by an officer under his or her supervision to an alleged violator of any traffic law or ordinance and of all physical copies or electronic records of every traffic citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator.~~

~~6. The chief administrative officer shall also maintain or cause to be maintained a record of every traffic citation issued by officers under his or her supervision. The record must be retained for at least 2 years after issuance of the citation.~~

~~7. As used in this section, "officer" includes a volunteer appointed to a traffic enforcement agency pursuant to NRS 484B.470.] (Deleted by amendment.)~~

Sec. 27. ~~[NRS 484A.700 is hereby amended to read as follows:~~

~~484A.700 1. A traffic citation for a parking violation may be prepared manually or electronically.~~

~~2. When a traffic citation for a parking violation **that is punishable as a misdemeanor** has been issued identifying by license number a vehicle registered to a person who has not signed the citation, a bench warrant may not be issued for that person for failure to appear before the court unless:~~

~~(a) A notice to appear concerning the violation is first sent to the person by first class mail within 60 days after the citation is issued; and~~

~~(b) The person does not appear within 20 days after the date of the notice or the notice to appear is returned with a report that it cannot be delivered.]~~

~~(Deleted by amendment.)~~

Sec. 28. ~~[NRS 484A.720 is hereby amended to read as follows:~~

~~484A.720 Whenever any person is halted by a peace officer for any violation of chapters 484A to 484E, inclusive, of NRS not amounting to a gross misdemeanor or felony [.] **or that is not required to be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act**, the person shall be taken without unnecessary delay before the proper magistrate, as specified in NRS 484A.750, in either of the following cases:~~

~~1. When the person demands an immediate appearance before a magistrate; or~~

~~2. In any other event when the person is issued a traffic citation by an authorized person and refuses to give a written promise to appear in court as provided in NRS 484A.630.] (Deleted by amendment.)~~

Sec. 29. ~~[NRS 484A.730 is hereby amended to read as follows:~~

~~484A.730 Whenever any person is halted by a peace officer for any violation of chapters 484A to 484E, inclusive, of NRS **that is not required to be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act** and is not required to be taken before a magistrate, the person may, in the discretion of the peace officer, either be given a traffic citation, or be taken without unnecessary delay before the proper magistrate. The person must be taken before the magistrate in any of the following cases:~~

~~1. When the person does not furnish satisfactory evidence of identity or when the peace officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court;~~

~~2. When the person is charged with a violation of NRS 484D.580 relating to the refusal of a driver of a vehicle to submit the vehicle to an inspection and test;~~

~~3. When the person is charged with a violation of NRS 484D.675 relating to the failure or refusal of a driver of a vehicle to submit the vehicle and load to a weighing or to remove excess weight therefrom; or~~

~~4. When the person is charged with a violation of NRS 484C.110 or 484C.120, unless the person is incapacitated and is being treated for injuries at the time the peace officer would otherwise be taking the person before the magistrate.] (Deleted by amendment.)~~

Sec. 30. ~~[NRS 484A.900 is hereby amended to read as follows:~~

~~484A.900 [1. It is unlawful and, unless otherwise declared in chapters 484A to 484E, inclusive, of NRS with respect to a particular offense, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in chapters 484A to 484E, inclusive, of NRS.~~

~~2.] The court may order any person who is twice convicted of, or found liable for a civil penalty for, violating a provision of chapters 484A to 484E, inclusive, of NRS to pay tuition for and attend a school for driver training which is approved by the Department for retraining such drivers. The person so ordered may choose from those so approved the school which the person will attend. A person who willfully fails to comply with such an order is guilty of a misdemeanor.] (Deleted by amendment.)~~

Sec. 31. ~~[NRS 484B.100 is hereby amended to read as follows:~~

~~484B.100 It is [unlawful] a misdemeanor for any person willfully to fail or refuse to comply with any lawful order or direction of any police officer while the officer is performing the duties of the officer in the enforcement of chapters 484A to 484E, inclusive, of NRS.] (Deleted by amendment.)~~

Sec. 32. ~~[NRS 484B.130 is hereby amended to read as follows:~~

~~484B.130 1. Except as otherwise provided in subsections 2 and 6, a person who is convicted of, or subject to a civil penalty for, a violation of a speed limit, or of NRS 484B.150, 484B.163, 484B.165, 484B.200 to 484B.217, inclusive, 484B.223, 484B.227, 484B.300, 484B.303, 484B.317, 484B.320, 484B.327, 484B.330, 484B.403, 484B.587, 484B.600, 484B.603, 484B.650, 484B.653, 484B.657, 484C.110 or 484C.120, that occurred:~~

~~(a) In an area designated as a temporary traffic control zone; and~~

~~(b) At a time when the workers who are performing construction, maintenance or repair of the highway or other work are present, or when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement treated bases, chip seals and other similar conditions,~~

~~→ shall be punished by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense [.] or for an amount equal to and in addition to the civil penalty imposed by the court pursuant to sections 12 to 22, inclusive, of this act. Any term of imprisonment~~

~~imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.~~

~~2. The additional penalty imposed pursuant to subsection 1 must not exceed a total of \$1,000, 6 months of imprisonment or 120 hours of community service.~~

~~3. Except as otherwise provided in subsection 5, a governmental entity that designates an area or authorizes the designation of an area as a temporary traffic control zone in which construction, maintenance or repair of a highway or other work is conducted, or the person with whom the governmental entity contracts to provide such service, shall cause to be erected:~~

~~(a) A sign located before the beginning of such an area stating "DOUBLE PENALTIES IN WORK ZONES" to indicate a double penalty may be imposed pursuant to this section;~~

~~(b) A sign to mark the beginning of the temporary traffic control zone; and~~

~~(c) A sign to mark the end of the temporary traffic control zone.~~

~~4. A person who otherwise would be subject to an additional penalty pursuant to this section is not relieved of any criminal or civil liability because signs are not erected as required by subsection 3 if the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more.~~

~~5. The requirements of subsection 3 do not apply to an area designated as a temporary traffic control zone:~~

~~(a) Pursuant to an emergency which results from a natural or other disaster and which threatens the health, safety or welfare of the public; or~~

~~(b) On a public highway where the posted speed limit is 25 miles per hour or less and that provides access to or is appurtenant to a residential area.~~

~~6. A person who would otherwise be subject to an additional penalty pursuant to this section is not subject to an additional penalty if the violation occurred in a temporary traffic control zone for which signs are not erected pursuant to subsection 5, unless the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to \$1,000 or more. (Deleted by amendment.)~~

Sec. 33. [NRS 484B.150 is hereby amended to read as follows:

~~484B.150 1. It is [unlawful] a misdemeanor for a person to drink an alcoholic beverage while the person is driving or in actual physical control of a motor vehicle upon a highway.~~

~~2. Except as otherwise provided in this subsection, it is [unlawful] a misdemeanor for a person to have an open container of an alcoholic beverage within the passenger area of a motor vehicle while the motor vehicle is upon a highway. This subsection does not apply to:~~

~~—(a) The passenger area of a motor vehicle which is designed, maintained or used primarily for the transportation of persons for compensation; or~~

~~—(b) The living quarters of a house coach or house trailer,~~

~~→ but does apply to the driver of such a motor vehicle who is in possession or control of an open container of an alcoholic beverage.~~

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

~~—4. As used in this section:~~

~~—(a) “Alcoholic beverage” has the meaning ascribed to it in NRS 202.015.~~

~~—(b) “Open container” means a container which has been opened or the seal of which has been broken.~~

~~—(c) “Passenger area” means that area of a vehicle which is designed for the seating of the driver or a passenger.] (Deleted by amendment.)~~

~~Sec. 34. [NRS 484B.317 is hereby amended to read as follows:~~

~~484B.317 1. A person shall not, without lawful authority, attempt to or alter, deface, injure, knock down or remove any official traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof.~~

~~2. A person who violates any provision of this section is guilty of a misdemeanor and may be subject to the additional penalty set forth in NRS 484B.130.] (Deleted by amendment.)~~

~~Sec. 35. [NRS 484B.330 is hereby amended to read as follows:~~

~~484B.330 1. It is [unlawful] a misdemeanor for a driver of a vehicle to fail or refuse to comply with any signal of an authorized flagger serving in a traffic control capacity in a clearly marked area of highway construction or maintenance or any other area which has been designated as a temporary traffic control zone.~~

~~2. A district attorney shall prosecute all violations of subsection 1 which occur in his or her jurisdiction and which result in injury to any person performing highway construction or maintenance or performing other work within an area designated as a temporary traffic control zone unless the district attorney has good cause for not prosecuting the violation. In addition to any other penalty, if a driver violates any provision of subsection 1 and the violation results in injury to any person performing highway construction or maintenance or performing other work within an area designated as a temporary traffic control zone, or in damage to property in an amount of not less than \$1,000, the driver shall be punished by a fine of not less than \$1,000 or more than \$2,000, and ordered to perform 120 hours of community service.~~

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

~~4. As used in this section, “authorized flagger serving in a traffic control capacity” means:~~

~~—(a) An employee of the Department of Transportation or of a contractor performing highway construction or maintenance or performing other work within an area designated as a temporary traffic control zone for the~~

Department of Transportation while the employee is carrying out the duties of his or her employment;

~~— (b) An employee of any other governmental entity or of a contractor performing highway construction or maintenance or performing other work within an area designated as a temporary traffic control zone for the governmental entity while the employee is carrying out the duties of his or her employment; or~~

~~— (c) Any other person employed by a private entity performing highway construction or maintenance or performing other work within an area designated as a temporary traffic control zone while the person is carrying out the duties of his or her employment if the person has satisfactorily completed training as a flagger approved or recognized by the Department of Transportation.] **(Deleted by amendment.)**~~

Sec. 36. ~~[NRS 484C.470 is hereby amended to read as follows:~~

~~484C.470 1. A person required to install a device pursuant to NRS 484C.460 shall not operate a motor vehicle without a device or tamper with the device.~~

~~— 2. A person who violates any provision of subsection 1:~~

~~— (a) Must have his or her driving privilege revoked in the manner set forth in subsection 4 of NRS 483.460; and~~

~~— (b) ***[Shall] Is guilty of a misdemeanor and shall be:***~~

~~— (1) Punished by imprisonment in jail for not less than 30 days nor more than 6 months; or~~

~~— (2) Sentenced to a term of not less than 60 days in residential confinement nor more than 6 months, and by a fine of not less than \$500 nor more than \$1,000;~~

~~— No person who is punished pursuant to this section may be granted probation, and no sentence imposed for such a violation may be suspended. No prosecutor may dismiss a charge of such a violation in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless, in the judgment of the attorney, the charge is not supported by probable cause or cannot be proved at trial.] **(Deleted by amendment.)**~~

Sec. 37. ~~[NRS 485.187 is hereby amended to read as follows:~~

~~485.187 1. Except as otherwise provided in subsection 5, the owner of a motor vehicle shall not:~~

~~— (a) Operate the motor vehicle, if it is registered or required to be registered in this State, without having insurance as required by NRS 485.185.~~

~~— (b) Operate or knowingly permit the operation of the motor vehicle without having evidence of insurance of the operator or the vehicle in the vehicle.~~

~~— (c) Fail or refuse to surrender, upon demand, to a peace officer or to an authorized representative of the Department the evidence of insurance.~~

~~— (d) Knowingly permit the operation of the motor vehicle in violation of subsection 3 of NRS 485.186.~~

~~2. A person shall not operate the motor vehicle of another person unless the person who will operate the motor vehicle:~~

~~— (a) First ensures that the required evidence of insurance is present in the motor vehicle; or~~

~~— (b) Has his or her own evidence of insurance which covers that person as the operator of the motor vehicle.~~

~~3. Except as otherwise provided in **this subsection and** subsection 4, [any person who violates subsection 1 or 2 is guilty of a misdemeanor.] **a violation of subsection 1 or 2 must be treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act.** Except as otherwise provided in this subsection, [in addition to any other penalty,] a person [sentenced pursuant to this subsection shall be punished by a fine] **who violates a provision of subsection 1 or 2 is subject to a civil penalty** of not less than \$600 nor more than \$1,000 for each violation. The [fine] **civil penalty** must be reduced to \$100 for the first violation if the person obtains a motor vehicle liability policy by the time [of sentencing,] **at which a court imposes the civil penalty,** unless:~~

~~— (a) The person has registered the vehicle as part of a fleet of vehicles pursuant to subsection 5 of NRS 482.215; or~~

~~— (b) The person has been issued a certificate of self insurance pursuant to NRS 485.380.~~

~~4. A court:~~

~~— (a) Shall not [find a person guilty or fine] **impose a civil penalty on** a person for a violation of paragraph (a), (b) or (c) of subsection 1 or for a violation of subsection 2 if the person presents evidence to the court that the insurance required by NRS 485.185 was in effect at the time demand was made for it.~~

~~— (b) Except as otherwise provided in paragraph (a), may impose a [fine] **civil penalty** of not more than \$1,000 for a violation of paragraph (a), (b) or (c) of subsection 1, and suspend the balance of the fine on the condition that the person presents proof to the court each month for 12 months that the insurance required by NRS 485.185 is currently in effect.~~

~~5. The provisions of paragraphs (b) and (c) of subsection 1 do not apply if the motor vehicle in question displays a valid permit issued by the Department pursuant to subsection 1 or 2 of NRS 482.3955, or NRS 482.396 or 482.3965 authorizing the movement or operation of that vehicle within the State for a limited time.] **(Deleted by amendment.)**~~

Sec. 38. [NRS 485.226 is hereby amended to read as follows:

~~485.226 1. The Department shall suspend the license of any person [convicted of violating] **against whom a judgment for a civil penalty is entered pursuant to sections 12 to 22, inclusive, of this act for a violation of** the provisions of paragraph (a) of subsection 1 of NRS 485.187.~~

~~2. Any license suspended pursuant to subsection 1 must remain suspended until the person shows proof of financial responsibility as set forth in NRS 485.307. The person shall maintain proof of financial responsibility for 3 years after the reinstatement of his or her license pursuant to the provisions of this chapter, and if the person fails to do so, the Department shall suspend~~

any license previously suspended pursuant to subsection 1.] (Deleted by amendment.)

Sec. 39. ~~[NRS 486.381 is hereby amended to read as follows:
486.381 Any [person violating any provisions] violation of a provision of
NRS 486.011 to 486.361, inclusive, [is guilty of a misdemeanor.] must be
treated as a civil matter pursuant to sections 12 to 22, inclusive, of this act,
and a person who violates any provision of NRS 486.011 to 486.361,
inclusive, is subject to a civil penalty of not more than \$250.] (Deleted by
amendment.)~~

Sec. 40. ~~[NRS 62A.220 is hereby amended to read as follows:
62A.220 "Minor traffic offense" means a violation of any state or local law
or ordinance governing the operation of a motor vehicle upon any highway
within this State other than:
1. A violation of chapters 484A to 484E, inclusive, or 706 of NRS that
causes the death of a person;
2. A violation of NRS 484C.110 or 484C.120; [or]
3. A violation declared to be a felony [.] ; or
4. A violation of a provision of chapters 482 to 486, inclusive, of
NRS that must be treated as a civil matter pursuant to sections 12 to 22,
inclusive, of this act.] (Deleted by amendment.)~~

Sec. 41. ~~[NRS 62B.380 is hereby amended to read as follows:
62B.380 1. [If a child is charged with a minor traffic offense, the] The
juvenile court has exclusive jurisdiction over proceedings concerning any
child who commits a minor traffic offense or who violates a provision of
chapters 482 to 486, inclusive, of NRS that must be treated as a civil matter
pursuant to sections 12 to 22, inclusive, of this act. The juvenile court may
transfer the case and record to a Justice Court or municipal court if the juvenile
court determines that the transfer is in the best interests of the child.
2. If a case is transferred pursuant to this section:
(a) [The] If the case concerns a child who commits a minor traffic offense,
the restrictions set forth in NRS 62C.030 are applicable in those proceedings;
[and]
(b) If the case concerns a child who violates a provision of chapters 482
to 486, inclusive, of NRS that must be treated as a civil matter pursuant to
sections 12 to 22, inclusive, of this act, the case must be processed, heard and
disposed of in the same manner and with the same penalties as provided in
NRS 482.385, 482.545, 482.550, 485.187 and 486.381 and sections 12 to 22,
inclusive, of this act; and
(c) A parent or guardian must accompany the child at all proceedings.
3. If the juvenile court transfers a case and record to a Justice Court or
municipal court pursuant to this section, the Justice Court or municipal court
may transfer the case and record back to the juvenile court with the consent of
the juvenile court.
4. If a case concerns a child who violates a provision of chapters 482 to
486, inclusive, of NRS that must be treated as a civil matter pursuant to~~

~~sections 12 to 22, inclusive, of this act and the case is not transferred pursuant to this section, the child must not be treated as a child alleged to be in need of supervision or delinquent and the juvenile court must not adjudicate the child delinquent or in need of supervision. If the juvenile court finds that the child committed the violation, the juvenile court must impose the civil penalty authorized by the applicable provision of NRS 482.385, 482.545, 482.550, 485.187 or 486.381 or sections 12 to 22, inclusive, of this act, and order the child or the parent or guardian of the child, or both, to pay an administrative assessment of \$10 in addition to the civil penalty. The administrative assessment must be distributed in the manner provided by NRS 62E.270.] (Deleted by amendment.)~~

Sec. 42. ~~[NRS 62E.270 is hereby amended to read as follows:~~

~~62E.270 1. If the juvenile court imposes a civil penalty pursuant to NRS 62B.380 or a fine against:~~

~~— (a) A delinquent child pursuant to NRS 62E.730;~~

~~— (b) A child who has committed a minor traffic offense, except an offense related to metered parking, pursuant to NRS 62E.700; [or]~~

~~— (c) A child who violates a provision of chapters 482 to 486, inclusive, of NRS that must be treated as a civil matter pursuant to subsection 4 of NRS 62B.380; or~~

~~— (d) A child in need of supervision, or the parent or guardian of the child, because the child is a habitual truant pursuant to NRS 62E.430;~~

~~the juvenile court shall order the child or the parent or guardian of the child to pay an administrative assessment of \$10 in addition to the civil penalty or fine.~~

~~2. If, pursuant to NRS 62E.440, the juvenile court imposes a fine against a child who has committed an offense related to tobacco, the juvenile court shall order the child to pay an administrative assessment of \$10 in addition to the fine.~~

~~3. The juvenile court shall state separately on its docket the amount of money that the juvenile court collects for the administrative assessment.~~

~~4. If the child is found not to have committed the alleged act or the charges are dropped, the juvenile court shall return to the child or the parent or guardian of the child any money deposited with the juvenile court for the administrative assessment.~~

~~5. On or before the fifth day of each month for the preceding month, the clerk of the court shall pay to the county treasurer the money the juvenile court collects for administrative assessments.~~

~~6. On or before the 15th day of each month, the county treasurer shall deposit the money in the county general fund for credit to a special account for the use of the county's juvenile court or for services to delinquent children.]~~

~~(Deleted by amendment.)~~

Sec. 43. ~~[NRS 176.059 is hereby amended to read as follows:~~

~~176.059 1. Except as otherwise provided in subsection 2, when a defendant is found liable for a civil penalty pursuant to sections 12 to 22,~~

~~inclusive, of this act or~~ pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the **civil judgment or** sentence the sum prescribed by the following schedule as an administrative assessment and render a judgment against the defendant for the assessment:

Civil Penalty or Fine	Assessment
\$5 to \$49.....	\$30
50 to 59.....	45
60 to 69.....	50
70 to 79.....	55
80 to 89.....	60
90 to 99.....	65
100 to 199.....	75
200 to 299.....	85
300 to 399.....	95
400 to 499.....	105
500 to 1,000.....	120

~~If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the amount of the administrative assessment that corresponds with the fine for which the defendant would have been responsible as prescribed by the schedule in this subsection.~~

~~2. The provisions of subsection 1 do not apply to:~~

~~(a) An ordinance regulating metered parking; or~~

~~(b) An ordinance which is specifically designated as imposing a civil [penalty or] liability pursuant to NRS [244.3575 or] 268.019.~~

~~3. The money collected for an administrative assessment must not be deducted from the **civil penalty or** fine imposed by the justice or judge but must be taxed against the defendant in addition to the **civil penalty or** fine. The money collected for an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 5 or 6. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a **civil penalty or** fine because the **civil penalty or** fine has been determined to be uncollectible, any balance of the **civil penalty or** fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a **civil penalty or** fine is determined to be uncollectible, the defendant is not entitled to a refund of the **civil penalty or** fine or the administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.~~

~~4. If the justice or judge permits the **civil penalty or** fine and administrative assessment to be paid in installments, the payments must be first applied to the unpaid balance of the administrative assessment. The city treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 5. The county treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 6.~~

~~5. The money collected for administrative assessments in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:~~

~~(a) Two dollars to the county treasurer for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.~~

~~(b) Seven dollars for credit to a special revenue fund for the use of the municipal courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the municipal general fund if it has not been committed for expenditure. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.~~

~~(c) Five dollars to the State Controller for credit to the State General Fund.~~

~~(d) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund for distribution as provided in subsection 8.~~

~~6. The money collected for administrative assessments in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:~~

~~(a) Two dollars for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.~~

~~(b) Seven dollars for credit to a special revenue fund for the use of the justice courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a justice~~

~~court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.~~

~~— (c) Five dollars to the State Controller for credit to the State General Fund.~~

~~— (d) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund for distribution as provided in subsection 8.~~

~~— 7. The money apportioned to a juvenile court, a justice court or a municipal court pursuant to this section must be used, in addition to providing services to juvenile offenders in the juvenile court, to improve the operations of the court, or to acquire appropriate advanced technology or the use of such technology, or both. Money used to improve the operations of the court may include expenditures for:~~

~~— (a) Training and education of personnel;~~

~~— (b) Acquisition of capital goods;~~

~~— (c) Management and operational studies; or~~

~~— (d) Audits.~~

~~— 8. Of the total amount deposited in the State General Fund pursuant to paragraph (d) of subsection 5 and paragraph (d) of subsection 6, the State Controller shall distribute the money received to the following public agencies in the following manner:~~

~~— (a) Not less than 51 percent to the Office of Court Administrator for allocation as follows:~~

~~— (1) Thirty-six and one-half percent of the amount distributed to the Office of Court Administrator for:~~

~~— (I) The administration of the courts;~~

~~— (II) The development of a uniform system for judicial records; and~~

~~— (III) Continuing judicial education.~~

~~— (2) Forty-eight percent of the amount distributed to the Office of Court Administrator for the Supreme Court.~~

~~— (3) Three and one-half percent of the amount distributed to the Office of Court Administrator for the payment for the services of retired justices, retired judges of the Court of Appeals and retired district judges.~~

~~— (4) Twelve percent of the amount distributed to the Office of Court Administrator for the provision of specialty court programs.~~

~~— (b) Not more than 49 percent must be used to the extent of legislative authorization for the support of:~~

~~— (1) The Central Repository for Nevada Records of Criminal History;~~

~~— (2) The Peace Officers' Standards and Training Commission;~~

~~— (3) The operation by the Department of Public Safety of a computerized interoperative system for information related to law enforcement;~~

~~— (4) The Fund for the Compensation of Victims of Crime;~~

~~— (5) The Advisory Council for Prosecuting Attorneys; and~~

~~— (6) Programs within the Office of the Attorney General related to victims of domestic violence.~~

~~9. Any money deposited in the State General Fund pursuant to paragraph (d) of subsection 5 and paragraph (d) of subsection 6 that is not distributed or used pursuant to paragraph (b) of subsection 8 must be transferred to the uncommitted balance of the State General Fund.~~

~~10. As used in this section:~~

~~(a) "Juvenile court" has the meaning ascribed to it in NRS 62A.180.~~

~~(b) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.] (Deleted by amendment.)~~

Sec. 44. ~~[NRS 176.0611 is hereby amended to read as follows:~~

~~176.0611 1. A county or a city, upon recommendation of the appropriate court, may, by ordinance, authorize the justices or judges of the justice or municipal courts within its jurisdiction to impose for not longer than 50 years, in addition to the administrative assessments imposed pursuant to NRS 176.059, 176.0613 and 176.0623, an administrative assessment for the provision of court facilities.~~

~~2. Except as otherwise provided in subsection 3, in any jurisdiction in which an administrative assessment for the provision of court facilities has been authorized, when a defendant is found liable for a civil penalty pursuant to sections 12 to 22, inclusive, of this act or pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the civil judgment or sentence the sum of \$10 as an administrative assessment for the provision of court facilities and render a judgment against the defendant for the assessment. If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the administrative assessment required pursuant to this subsection.~~

~~3. The provisions of subsection 2 do not apply to:~~

~~(a) An ordinance regulating metered parking; or~~

~~(b) An ordinance that is specifically designated as imposing a civil [penalty or] liability pursuant to NRS [244.3575 or] 268.019.~~

~~4. The money collected for an administrative assessment for the provision of court facilities must not be deducted from the civil penalty or fine imposed by the justice or judge but must be taxed against the defendant in addition to the civil penalty or fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a civil penalty or fine because the civil penalty or fine has been determined to be uncollectible, any balance of the civil penalty or fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a civil penalty or fine is determined to be uncollectible, the defendant is not entitled to a refund of the civil penalty or~~

~~fine or the administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.~~

~~5. If the justice or judge permits the **civil penalty or fine** and the administrative assessment for the provision of court facilities to be paid in installments, the payments must be applied in the following order:~~

~~—(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;~~

~~—(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to this section;~~

~~—(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0612;~~

~~—(d) To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis pursuant to NRS 176.0622; and~~

~~—(e) To pay the **civil penalty or fine**.~~

~~6. The money collected for administrative assessments for the provision of court facilities in municipal courts must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall deposit the money received in a special revenue fund. The city may use the money in the special revenue fund only to:~~

~~—(a) Acquire land on which to construct additional facilities for the municipal courts or a regional justice center that includes the municipal courts.~~

~~—(b) Construct or acquire additional facilities for the municipal courts or a regional justice center that includes the municipal courts.~~

~~—(c) Renovate or remodel existing facilities for the municipal courts.~~

~~—(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the municipal courts or a regional justice center that includes the municipal courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.~~

~~—(e) Acquire advanced technology for use in the additional or renovated facilities.~~

~~—(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the municipal courts or a regional justice center that includes the municipal courts.~~

~~Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the municipal general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.~~

~~7. The money collected for administrative assessments for the provision of court facilities in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall deposit the money received to a special revenue fund. The county may use the money in the special revenue fund only to:~~

~~(a) Acquire land on which to construct additional facilities for the justice courts or a regional justice center that includes the justice courts.~~

~~(b) Construct or acquire additional facilities for the justice courts or a regional justice center that includes the justice courts.~~

~~(c) Renovate or remodel existing facilities for the justice courts.~~

~~(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the justice courts or a regional justice center that includes the justice courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.~~

~~(e) Acquire advanced technology for use in the additional or renovated facilities.~~

~~(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the justice courts or a regional justice center that includes the justice courts.~~

~~Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the county general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.~~

~~8. If money collected pursuant to this section is to be used to acquire land on which to construct a regional justice center, to construct a regional justice center or to pay debt service on bonds issued for these purposes, the county and the participating cities shall, by interlocal agreement, determine such issues as the size of the regional justice center, the manner in which the center will be used and the apportionment of fiscal responsibility for the center.]~~

(Deleted by amendment.)

Sec. 45. [NRS 176.0613 is hereby amended to read as follows:

~~176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059, 176.0611 and 176.0623, an administrative assessment for the provision of specialty court programs.~~

~~2. Except as otherwise provided in subsection 3, when a defendant is found liable for a civil penalty pursuant to sections 12 to 22, inclusive, of this act or pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a misdemeanor, including the violation of any municipal~~

~~ordinance, the justice or judge shall include in the **civil judgment or** sentence the sum of \$7 as an administrative assessment for the provision of specialty court programs and render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.~~

~~3. The provisions of subsection 2 do not apply to:~~

~~—(a) An ordinance regulating metered parking; or~~

~~—(b) An ordinance which is specifically designated as imposing a civil [penalty or] liability pursuant to NRS [244.3575 or] 268.019.~~

~~4. The money collected for an administrative assessment for the provision of specialty court programs must not be deducted from the **civil penalty or** fine imposed by the justice or judge but must be taxed against the defendant in addition to the **civil penalty or** fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a **civil penalty or** fine because the **civil penalty or** fine has been determined to be uncollectible, any balance of the **civil penalty or** fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a **civil penalty or** fine is determined to be uncollectible, the defendant is not entitled to a refund of the **civil penalty or** fine or administrative assessment the defendant has paid and the justice or judge shall not recalculate the administrative assessment.~~

~~5. If the justice or judge permits the **civil penalty or** fine and the administrative assessment for the provision of specialty court programs to be paid in installments, the payments must be applied in the following order:~~

~~—(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;~~

~~—(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;~~

~~—(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs;~~

~~—(d) To pay the unpaid balance of an administrative assessment for obtaining a biological specimen and conducting a genetic marker analysis pursuant to NRS 176.0623; and~~

~~—(e) To pay the **civil penalty or** fine.~~

~~6. The money collected for an administrative assessment for the provision of specialty court programs in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit the money received for each administrative assessment with the~~

~~State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.~~

~~7. The money collected for an administrative assessment for the provision of specialty court programs in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the county treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.~~

~~8. The Office of Court Administrator shall allocate the money credited to the State General Fund pursuant to subsections 6 and 7 to courts to assist with the funding or establishment of specialty court programs.~~

~~9. Money that is apportioned to a court from administrative assessments for the provision of specialty court programs must be used by the court to:~~

~~(a) Pay for the treatment and testing of persons who participate in the program; and~~

~~(b) Improve the operations of the specialty court program by any combination of:~~

~~(1) Acquiring necessary capital goods;~~

~~(2) Providing for personnel to staff and oversee the specialty court program;~~

~~(3) Providing training and education to personnel;~~

~~(4) Studying the management and operation of the program;~~

~~(5) Conducting audits of the program;~~

~~(6) Supplementing the funds used to pay for judges to oversee a specialty court program; or~~

~~(7) Acquiring or using appropriate technology.~~

~~10. As used in this section:~~

~~(a) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320; and~~

~~(b) "Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250, 176A.280 or 453.580.~~

(Deleted by amendment.)

Sec. 46. [NRS 244.3575 is hereby repealed.] (Deleted by amendment.)

Sec. 47. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created the Subcommittee on Criminal and Civil Violations of Traffic Laws of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee and designate one of the members of the Subcommittee as Chair of the Subcommittee. The Chair of the Subcommittee must be a member of the Commission.

3. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.

4. The Subcommittee shall consider issues relating to:

(a) The existing laws of this State concerning the violation of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, and the treatment of violations of such laws as criminal offenses;

(b) The related laws of other states concerning violations of such laws and their treatment of violations of such laws as criminal offenses or civil infractions;

(c) The appropriate and necessary elements of a system to treat violations of such laws as civil infractions in this State, including, without limitation, computer systems, court procedures, training and staffing; and

(d) The anticipated fiscal effects of a system to treat violations of such laws as civil infractions in this State, including, without limitation, the effects on this State and its political subdivisions,

↪ and shall evaluate, review and submit a report to the Commission with recommendations concerning such issues.

5. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature during the first 60 days of the immediately preceding session for each day's attendance at a meeting of the Subcommittee.

6. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 48. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, **and section 47 of this act**, "Commission" means the Advisory Commission on the Administration of Justice.

Sec. 49. NRS 176.0125 is hereby amended to read as follows:

176.0125 The Commission shall:

1. Identify and study the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.

2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, but not limited to, the use of plea bargaining, probation, programs of intensive supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, structured or tiered sentencing, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, but not limited to, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.

(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.

4. Evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners with consideration as to whether it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning:

(a) Policies relating to parole;

(b) Regulatory procedures and policies of the State Board of Parole Commissioners;

(c) Policies for the operation of the Department of Corrections;

(d) Budgetary issues; and

(e) Other related matters.

5. Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.

6. Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations and reports and the extent to which judges

in this State rely on and follow the recommendations contained in such presentence investigations and reports.

7. Evaluate, review and comment upon issues relating to juvenile justice in this State, including, but not limited to:

(a) The need for the establishment and implementation of evidence-based programs and a continuum of sanctions for children who are subject to the jurisdiction of the juvenile court; and

(b) The impact on the criminal justice system of the policies and programs of the juvenile justice system.

8. Compile and develop statistical information concerning sentencing in this State.

9. Identify and study issues relating to the application of chapter 241 of NRS to meetings held by the:

(a) State Board of Pardons Commissioners to consider an application for clemency; and

(b) State Board of Parole Commissioners to consider an offender for parole.

10. Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits against the sentences of offenders, the accounting of such credits and any other policies and procedures of the Department which pertain to the operation of the Department.

11. Evaluate the policies and practices relating to the involuntary civil commitment of sexually dangerous persons.

12. Identify and study the impacts and effects of collateral consequences of convictions in this State. Such identification and study:

(a) Must cause to be identified any provision in the Nevada Constitution, the Nevada Revised Statutes and the Nevada Administrative Code which imposes a collateral sanction or authorizes the imposition of a disqualification, and any provision of law that may afford relief from a collateral consequence;

(b) May rely on the study of this State's collateral sanctions, disqualifications and relief provisions prepared by the National Institute of Justice described in section 510 of the Court Security Improvement Act of 2007, Public Law 110-177; and

(c) Must include the posting of a hyperlink on the Commission's website to any study of this State's collateral sanctions, disqualifications and relief provisions prepared by the National Institute of Justice described in section 510 of the Court Security Improvement Act of 2007, Public Law 110-177.

13. **Evaluate the policies and practices relating to criminal violations of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, with consideration as to whether it is feasible and advisable to treat such violations as civil matters and, if so, the issues involved in implementing a system to treat such violations as civil matters.**

14. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the

administration of justice in this State, the Commission's findings 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. 50. NRS 176.01255 is hereby amended to read as follows:

176.01255 1. The Chair of the Commission may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of NRS 176.0121 to 176.0129, inclusive, ~~and~~, **and section 47 of this act.**

2. Any money received pursuant to this section must be deposited in the Special Account for the Support of the Advisory Commission on the Administration of Justice, which is hereby created in the State General Fund. Interest and income earned on money in the Account must be credited to the Account. Money in the Account may only be used for the support of the Commission and its activities pursuant to NRS 176.0121 to 176.0129, inclusive, ~~and~~, **and section 47 of this act.**

Sec. 51. The Subcommittee on Criminal and Civil Violations of Traffic Laws of the Advisory Commission on the Administration of Justice appointed pursuant to section 47 of this act shall submit a report of its findings and any recommendations for legislation to the Advisory Commission not later than 30 days before the date of the meeting at which the Advisory Commission considers findings and recommendations of the Advisory Commission for proposed legislation to the 79th Session of the Nevada Legislature. At that meeting, the Advisory Commission shall consider any recommendation for proposed legislation submitted to the Advisory Commission by the Subcommittee.

Sec. 52. The amendatory provisions of this act expire by limitation on July 31, 2017.

†

~~TEXT OF REPEALED SECTION~~

~~244.3575 Ordinances regulating parking: Civil penalty in lieu of criminal sanction. A board of county commissioners may by ordinance provide that the violation of a specific ordinance regulating parking imposes a civil penalty in an amount not to exceed \$155, instead of a criminal sanction.]~~

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 293.

Bill read second time.

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

Amendment No. 490.

AN ACT relating to public administrators; setting forth certain qualifications for deputy public administrators; ~~requiring a public administrator to obtain permission from the board of county commissioners before transporting certain property outside of the county; requiring a public administrator to submit an independent audit report on an annual basis to the board of county commissioners;~~ **authorizing the board of county commissioners in smaller counties to impose certain duties on the public administrators of the county; authorizing a board of county commissioners to take certain action concerning complaints received by the board against the public administrator;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a public administrator to meet certain qualifications for office. (NRS 253.010) Existing law also authorizes a public administrator to appoint as many deputy public administrators as he or she deems necessary and authorizes a deputy public administrator to perform all duties required of the public administrator. (NRS 253.025) **Section 1** of this bill requires a deputy public administrator, like a public administrator, to: (1) be a qualified elector of the county; (2) be 21 years of age or older; (3) not have been convicted of a felony for which his or her civil rights have not been restored by a court of competent jurisdiction; and (4) not have been found liable in a civil action involving fraud, misrepresentation, material omission, misappropriation, theft or conversion.

Existing law authorizes a public administrator, without procuring letters of administration and upon filing with the court an affidavit of his or her right to do so, to administer an estate in which the gross value of the decedent's property does not exceed \$20,000. (NRS 253.0403) Section 1.5 of this bill increases this threshold amount to \$25,000.

Existing law sets forth the duties of a public administrator in administering the estate of an intestate decedent. (NRS 253.0415) **Section 2** of this bill ~~requires a~~ **authorizes the board of county commissioners, in a county whose population is less than 100,000, to require by ordinance, the** public administrator ~~that~~, **if he or she** has been made an administrator of the estate of an intestate decedent **who resides in the county, to notify or** obtain permission from the board ~~of county commissioners of the county of residence of the decedent~~ before taking any property belonging to the decedent out of the county.

Existing law authorizes a board of county commissioners to investigate any complaint received by the board against the public administrator. (NRS 253.091) **Section 3** of this bill authorizes the board to take any appropriate action that it deems is necessary to resolve such a complaint. **Section 3** also ~~requires~~ **authorizes the board of county commissioners, in a county whose population is less than 100,000, to require, by ordinance,** a public administrator to submit an independent audit report to the board on an annual basis, which covers the records and office of the public administrator.

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

Section 1. NRS 253.025 is hereby amended to read as follows:

253.025 1. A public administrator may appoint as many deputies as the public administrator deems necessary to perform fully the duties of his or her office. A deputy so appointed may perform all duties required of the public administrator and has the corresponding powers and responsibilities. Before entering upon the discharge of his or her duties each deputy must take and subscribe to the constitutional oath of office. The appointment of a deputy must not be construed to confer upon that deputy policymaking authority for the office of the county public administrator or the county by which the deputy is employed.

2. Each appointment must be in writing and recorded with the oath of office of that deputy in the office of the county recorder. Any revocation or resignation of an appointment must be recorded in the office of the county recorder.

3. The public administrator is responsible on his or her official bond for any official malfeasance or nonfeasance of his or her deputies and may require a bond for the faithful performance of the official duties of his or her deputies.

4. Every deputy appointed pursuant to this section must:

- (a) Be a qualified elector of the county;**
- (b) Be at least 21 years of age;**
- (c) Not have been convicted of a felony for which his or her civil rights have not been restored by a court of competent jurisdiction; and**
- (d) Not have been found liable in a civil action involving a finding of fraud, misrepresentation, material omission, misappropriation, theft or conversion.**

Sec. 1.5. NRS 253.0403 is hereby amended to read as follows:

253.0403 1. When the gross value of a decedent's property situated in this State does not exceed ~~[\$20,000]~~ **\$25,000**, a public administrator may, without procuring letters of administration, administer the estate of that person upon filing with the court an affidavit of his or her right to do so.

2. The affidavit must provide:

- (a) The public administrator's name and address, and his or her attestation that he or she is entitled by law to administer the estate;
- (b) The decedent's place of residence at the time of his or her death;
- (c) That the gross value of the decedent's property in this State does not exceed ~~[\$20,000]~~ **\$25,000**;
- (d) That at least 40 days have elapsed since the death of the decedent;
- (e) That no application or petition for the appointment of a personal representative is pending or has been granted in this State;
- (f) A description of the personal property of the decedent;
- (g) Whether there are any heirs or next of kin known to the affiant, and if known, the name and address of each such person;

(h) If heirs or next of kin are known to the affiant, a description of the method of service the affiant used to provide to each of them notice of the affidavit and that at least 10 days have elapsed since the notice was provided;

(i) That all debts of the decedent, including funeral and burial expenses, have been paid or provided for; and

(j) The name of each person to whom the affiant intends to distribute the decedent's property.

3. Before filing the affidavit with the court, the public administrator shall take reasonable steps to ascertain whether any of the decedent's heirs or next of kin exist. If the administrator determines that heirs or next of kin exist, the administrator shall serve each of them with a copy of the affidavit. Service must be made personally or by certified mail.

4. If the affiant:

(a) Submits an affidavit which does not meet the requirements of subsection 2 or which contains statements which are not entirely true, any money or property the affiant receives or distributes is subject to all debts of the decedent, based on the priority for payment of debts and charges specified in NRS 147.195.

(b) Fails to give notice to heirs or next of kin as required by subsection 3, any money or property the affiant holds or distributes to others shall be deemed to be held in trust for those heirs and next of kin who did not receive notice and have an interest in the property.

5. A person who receives an affidavit containing the information required by subsection 2 is entitled to rely upon such information, and if the person relies in good faith, he or she is immune from civil liability for actions based on that reliance.

6. Upon receiving proof of the death of the decedent, an affidavit containing the information required by this section and the written approval of the public administrator to do so:

(a) A transfer agent of any security shall change the registered ownership of the security claimed from the decedent to the person claiming to succeed to ownership of that security.

(b) A governmental agency required to issue certificates of title, ownership or registration to personal property shall issue a new certificate of title, ownership or registration to the person claiming to succeed to ownership of the property.

Sec. 2. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he or she has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he or she is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.655 to 111.699, inclusive, is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of an intestate decedent if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of an intestate decedent, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. The public administrator shall not administer any estate:

(a) Held in joint tenancy unless all joint tenants are deceased; or

(b) For which a deed upon death has been executed pursuant to NRS 111.655 to 111.699, inclusive.

3. ~~A public administrator that has been made the administrator of the estate of an intestate decedent shall not transport any property of the decedent outside of the county of residence of the decedent without first obtaining permission from the board of county commissioners.~~ In a county whose population is less than 100,000, the board of county commissioners may, by ordinance, require the public administrator to notify or obtain approval from the board of county commissioners before transporting outside the county any property of a decedent for whose estate the public administrator serves as administrator.

4. As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 3. NRS 253.091 is hereby amended to read as follows:

253.091 1. The board of county commissioners shall:

(a) Establish regulations for the form of any reports made by the public administrator.

(b) Review reports submitted to the board by the public administrator.

(c) Investigate any complaint received by the board against the public administrator ~~and~~ **and take any appropriate action it deems necessary to resolve the complaint.**

2. The board of county commissioners may at any time investigate any estate for which the public administrator is serving as administrator.

3. ~~On~~ In a county whose population is less than 100,000, the board of county commissioners may, by ordinance, require that, on or before March 1 of each year, the public administrator shall submit to the board of county commissioners an independent audit report prepared by a certified public accountant of the records and office of the public administrator. Each The ordinance must:

(a) Provide that each such audit report must cover the period starting January 1 of the previous calendar year and ending December 31 of the previous calendar year. The public administrator

(b) Prescribe who is responsible for paying the costs of the audit.

Sec. 4. This act becomes effective on July 1, 2015.

Assemblyman Ellison moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 306.

Bill read second time.

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

Amendment No. 394.

AN ACT relating to public health; requiring ~~an employer~~ **certain employers** to provide a reasonable break time and a clean, private place for an employee who is a nursing mother to express breast milk; prohibiting an employer from retaliating against an employee for certain actions relating to this requirement; ~~creating a right of action for~~ **authorizing** a public employee who is aggrieved by her employer's failure to comply with this requirement or by such retaliation by the employer ~~to file a complaint~~; exempting certain small employers from this requirement if compliance would cause an undue hardship; authorizing a local board of health to establish a program to mediate disputes concerning a violation of this requirement; authorizing the Labor Commissioner to enforce the requirement against private employers; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each employer to provide employees with certain meal and rest periods, with certain exceptions. (NRS 608.019) Existing law gives the Labor Commissioner the authority to prosecute violations of this requirement and provides that an employer who violates this requirement is guilty of a misdemeanor and subject to a civil penalty of \$5,000 per violation. (NRS 608.180, 608.195) Existing federal law requires an employer to provide a reasonable break time and a private place for certain employees to express breast milk for a nursing child for 1 year after the child's birth. (29 U.S.C. § 207) **Sections 2 and 3** of this bill similarly require each public and private employer in this State **, except for the Department of Corrections,** to provide reasonable break time and a clean, private place for an employee who is a nursing mother to express breast milk. Such break time may be with or without compensation. Additionally, **sections 2 and 3** prohibit **such** an employer from retaliating against an employee who: (1) takes the provided break time or uses the designated place to express breast milk; or (2) takes any action to enforce the requirement that the employer provide such a time and place. Finally, **section 3** relieves a private employer of fewer than ~~25~~ **50** persons from the duty to provide such accommodations if doing so would cause undue hardship to the employer.

Section 1 of this bill authorizes a local board of health to establish a program of voluntary mediation to resolve disputes concerning a violation of the

requirement that each employer provide break time and a place for an employee to express breast milk. **Section 2** ~~creates a right of action for~~ **authorizes** a public employee **to file a complaint** against a public employer who fails to meet the requirement to provide break time and a place for the employee to express breast milk. ~~and provides that an officer or agent of a public employer who violates this requirement is guilty of a misdemeanor.~~ **Section 4** of this bill authorizes the Labor Commissioner to enforce the requirement against private employers. **Section 5** of this bill provides that a private employer who violates this requirement is guilty of a misdemeanor and is subject to a civil penalty of \$5,000 per violation.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A local board of health may, by regulation, establish a program of voluntary mediation for disputes concerning complaints of violations of section 2 or 3 of this act. Such a program must allow persons to submit such a dispute for mediation before seeking enforcement ~~(by the Labor Commissioner)~~ pursuant to NRS 608.180 ~~and before filing a criminal complaint or an action in court,~~ or 608.195 or section 2 of this act.*

2. *Regulations establishing a program of voluntary mediation pursuant to subsection 1 may include, without limitation:*

- (a) Requirements for participation in the program;*
- (b) The types of disputes that may be submitted for mediation;*
- (c) The manner in which the parties must submit information concerning the dispute;*
- (d) The manner in which any inspections may occur;*
- (e) The manner in which findings will be made;*
- (f) Any fee to cover the cost of the mediation; and*
- (g) Any other matters relevant to the mediation.*

3. *Upon completion of any mediation conducted pursuant to this section, the mediator shall provide the parties with his or her findings and recommendations.*

4. *If the parties do not reach an agreement concerning a dispute as a result of participation in the program of voluntary mediation, the complainant may ~~file a complaint with the Labor Commissioner, a criminal complaint or commence an action in court, as appropriate,~~ seek enforcement pursuant to NRS 608.180 or 608.195 or section 2 of this act.*

5. *The local board of health shall not report any information to the Labor Commissioner or a court concerning a mediation conducted pursuant to this section except the findings and recommendations of the mediator.*

Sec. 2. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~1A~~ Except as otherwise provided in subsection 4, a public body shall provide an employee who is the mother of a child under 1 year of age with a reasonable break time, with or without compensation, for the employee to express breast milk for the child each time the employee needs to express such milk and a clean, private place, other than a bathroom, where the employee may express such milk.

2. Any officer or agent of a public body shall not retaliate, or direct or encourage another person to retaliate, against any employee of the public body because the employee has:

(a) Taken the break time or used the space required pursuant to subsection 1 to express breast milk; or

(b) Taken any action to require the public body to comply with the requirements of this section, including, without limitation, filing a complaint, testifying, assisting or participating in any manner in an investigation, proceeding or hearing to enforce this section.

3. ~~Any employee of a public body who is aggrieved by a violation of the provisions of this section may file a civil action in the district court of the county in which the violation occurred for declaratory, injunctive and monetary relief against the public body. If the court finds that there has been a violation of the provisions of this section by an officer or agent of the public body, the court shall award the employee the sum of \$5,000 for each violation or the sum of the employee's actual damages, whichever is greater.~~ An employee who is aggrieved by the failure of a public body to comply with the requirements of this section may:

(a) If the employee is an employee of the Executive Department of State Government and is not an employee of an entity described in NRS 284.013, file a complaint with the Personnel Commission in accordance with the procedures provided pursuant to NRS 284.384;

(b) If the employee is an employee of the Legislative Department of State Government, file a complaint with the Legislative Commission;

(c) If the employee is an employee of the Judicial Department of State Government, file a complaint with the Court Administrator; and

(d) If the employee is an employee of a municipality, county, school district or other type of district, or a city or town, file a complaint with the Local Government Employee-Management Relations Board.

4. ~~Any officer or agent of a public body whose duty it is to employ, direct or control the services of an employee covered by this section, who violates any of the provisions of this section, is guilty of a misdemeanor.~~ The requirements of this section do not apply to the Department of Corrections. The Department of Corrections is encouraged to make reasonable accommodations, when practicable, for an employee who is the mother of a child under 1 year of age to express breast milk.

5. As used in this section, "public body" means:

(a) The State of Nevada, or any agency, instrumentality or corporation thereof;

(b) The Nevada System of Higher Education;

(c) Any municipality, county, school district or other type of district, or a city or town, incorporated or unincorporated; or

(d) Any other body corporate and politic comprising a political subdivision of this State or acting on behalf thereof.

Sec. 2.2. NRS 284.384 is hereby amended to read as follows:

284.384 1. The Commission shall adopt regulations which provide for the adjustment of grievances for which a hearing is not provided by federal law or NRS 284.165, 284.245, 284.3629, 284.376 or 284.390 ~~and~~ **and complaints filed pursuant to section 2 of this act.** Any grievance for which a hearing is not provided by NRS 284.165, 284.245, 284.3629, 284.376 or 284.390 **, or any complaint filed pursuant to section 2 of this act,** is subject to adjustment pursuant to this section.

2. The regulations must provide procedures for:

(a) Consideration and adjustment of the grievance **or complaint** within the agency in which it arose.

(b) Submission to the Employee-Management Committee for a final decision if the employee is still dissatisfied with the resolution of the dispute.

(c) If requested by an employee or agency, the use of a resolution conference to resolve a grievance ~~and~~ **or complaint.**

3. The regulations must include provisions for:

(a) Submitting each proposed resolution of a dispute which has a fiscal effect to the Budget Division of the Department of Administration for a determination by that Division whether the resolution is feasible on the basis of its fiscal effects; and

(b) Making the resolution binding.

4. Any grievance **or complaint** which is subject to adjustment pursuant to this section may be appealed to the Employee-Management Committee for a final decision. Except as otherwise provided in subsection 3, a final decision of the Committee is binding. The Committee or an employee may petition a court of competent jurisdiction for enforcement of the Committee's binding decisions.

5. The employee may represent himself or herself at any hearing regarding a grievance **or complaint** which is subject to adjustment pursuant to this section or be represented by an attorney or other person of the employee's own choosing.

6. As used in this section, "grievance" means an act, omission or occurrence which an employee who has attained permanent status feels constitutes an injustice relating to any condition arising out of the relationship between an employer and an employee, including, but not limited to, compensation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or disagreement.

Sec. 2.7. NRS 288.270 is hereby amended to read as follows:

288.270 1. It is a prohibited practice for a local government employer or its designated representative willfully to:

(a) Interfere, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

(b) Dominate, interfere or assist in the formation or administration of any employee organization.

(c) Discriminate in regard to hiring, tenure or any term or condition of employment to encourage or discourage membership in any employee organization.

(d) Discharge or otherwise discriminate against any employee because the employee has signed or filed an affidavit, petition or complaint or given any information or testimony under this chapter, or because the employee has formed, joined or chosen to be represented by any employee organization.

(e) Refuse to bargain collectively in good faith with the exclusive representative as required in NRS 288.150. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter.

(f) Discriminate because of race, color, religion, sex, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.

(g) Fail to provide the information required by NRS 288.180.

(h) Fail to comply with the requirements of section 2 of this act.

2. It is a prohibited practice for a local government employee or for an employee organization or its designated agent willfully to:

(a) Interfere with, restrain or coerce any employee in the exercise of any right guaranteed under this chapter.

(b) Refuse to bargain collectively in good faith with the local government employer, if it is an exclusive representative, as required in NRS 288.150. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter.

(c) Discriminate because of race, color, religion, sex, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.

(d) Fail to provide the information required by NRS 288.180.

Sec. 3. Chapter 608 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, each employer shall provide an employee who is the mother of a child under 1 year of age with a reasonable break time, with or without compensation, for the employee to express breast milk for the child each time the employee needs to express such milk and a clean, private place, other than a bathroom, where the employee may express such milk.

2. An employer shall not retaliate, or direct or encourage another person to retaliate, against any employee because the employee has:

(a) Taken the break time or used the space required pursuant to subsection 1 to express breast milk; or

(b) Taken any action to require the employer to comply with the requirements of this section, including, without limitation, filing a complaint, testifying, assisting or participating in any manner in an investigation, proceeding or hearing to enforce this section.

3. An employer who employs fewer than ~~25~~ 50 employees is not subject to the requirements of this section if the requirements would impose undue hardship or expense on the employer, considering the size, financial resources, nature and structure of the business of the employer.

Sec. 4. NRS 608.180 is hereby amended to read as follows:

608.180 The Labor Commissioner or the representative of the Labor Commissioner shall cause the provisions of NRS 608.005 to 608.195, inclusive, **and section 3 of this act** to be enforced, and upon notice from the Labor Commissioner or the representative:

1. The district attorney of any county in which a violation of those sections has occurred;

2. The Deputy Labor Commissioner, as provided in NRS 607.050;

3. The Attorney General, as provided in NRS 607.160 or 607.220; or

4. The special counsel, as provided in NRS 607.065,

↪ shall prosecute the action for enforcement according to law.

Sec. 5. NRS 608.195 is hereby amended to read as follows:

608.195 1. Except as otherwise provided in NRS 608.0165, any person who violates any provision of NRS 608.005 to 608.195, inclusive, **and section 3 of this act**, or any regulation adopted pursuant thereto, is guilty of a misdemeanor.

2. In addition to any other remedy or penalty, the Labor Commissioner may impose against the person an administrative penalty of not more than \$5,000 for each such violation.

Sec. 6. This act becomes effective on July 1, 2015.

Assemblyman Oscarson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 307.

Bill read second time.

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

Amendment No. 502.

SUMMARY—Revises provisions relating to services for children with intellectual disabilities and children with related conditions. (BDR ~~{39-803}~~)

S-803)

AN ACT relating to mental health; ~~revising provisions concerning certain support, education and care for children with intellectual disabilities and children with related conditions required to be provided by counties;~~

providing for the establishment of a pilot program to provide certain ~~wrap-around~~ **intensive care coordination** services to children with intellectual disabilities and children with related conditions who **are also diagnosed as having behavioral health needs and** reside in certain larger counties; **requiring the Division of Health Care Financing and Policy of the Department of Health and Human Services and the Aging and Disability Services Division of the Department to take certain actions to monitor the effectiveness of the pilot program and obtain funding for the pilot program;** requiring the Department ~~of Health and Human Services~~ to take any actions necessary to use money from the State Plan for Medicaid to pay for the pilot program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each board of county commissioners to make provisions for the support, education and care of the children with intellectual disabilities and children with related conditions who reside in their respective counties. (NRS 435.010) ~~{Section 1 of this bill requires the services that the board of county commissioners is required to provide to children with intellectual disabilities and children with related conditions to include preventive services that allow such children to remain at home, respite care for the primary caregivers of such children, and food and lodging expenses for such children who reside in a residential facility for groups.}~~

Section 2 of this bill requires the Division of Health Care Financing and Policy of the Department of Health and Human Services and the Aging and Disability Services Division of the Department, to the extent that money is available for that purpose, to establish a pilot program to provide ~~wrap-around~~ **intensive care coordination** services to children with intellectual disabilities and children with related conditions who **have also been diagnosed as having behavioral health needs and** reside in a county whose population is 100,000 or more (currently Clark and Washoe Counties). The Director of the Department is required to amend the State Plan for Medicaid if needed and obtain any necessary Medicaid waiver necessary to use money received pursuant to the State Plan for Medicaid to pay for the pilot program. **Section 2** requires the ~~wrap-around~~ **intensive care coordination** services provided through the pilot program to include ~~preventive services to allow a child to remain at home, respite care for the primary caregiver~~ **certain medically necessary services, support for the family** of a child ~~in~~ and food and lodging expenses for a child who ~~resides in a residential facility for groups. Finally, section 2 provides that the cost of providing wrap-around services must not exceed the cost of placing the child in residential treatment outside this State.~~ **is receiving supported living arrangement services and does not reside with his or her parent or guardian. Section 2 requires the Division of Health Care Financing and Policy and the Aging and Disability Services Division to: (1) take certain measures to evaluate the effectiveness of the pilot program; and (2) collaborate with each person or governmental entity that provides services pursuant to the pilot program**

to obtain grants for the purpose of carrying out the pilot program. The pilot program will expire on July 1, 2019, unless extended before that date.

Section 3 of this bill requires the Division of Health Care Financing and Policy and the Aging and Disability Services Division to submit a report on or before April 30, 2016, and every 6 months thereafter until July 1, 2019, to the Legislature, if the Legislature is in session, or to the Legislative Committee on Health Care, if the Legislature is not in session, concerning the status and results of the pilot program. **Section 3** of this bill requires the board of county commissioners of each county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) to submit a report on or before April 30, 2016, and every 6 months until July 1, 2019, to the Legislature, if the Legislature is in session, or to the Legislative Committee on Health Care, if the Legislature is not in session, describing the manner in which the board makes provisions for the required support, education and care of the children with intellectual disabilities and children with related conditions who reside in the county.

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

Section 1. ~~NRS 435.010 is hereby amended to read as follows:~~
~~435.010 1. The boards of county commissioners of the various counties shall make provision for the support, education and care of the children with intellectual disabilities and children with related conditions of their respective counties. Such support, education and care must include, without limitation:~~
~~(a) Preventive services that allow such children to remain in their homes;~~
~~(b) Respite care for the primary caregivers of such children; and~~
~~(c) Food and lodging expenses for such children who reside in a residential facility for groups.~~
~~2. For that purpose, they are empowered to make all necessary contracts and agreements to carry out the provisions of this section and NRS 435.020 and 435.030. Any such contract or agreement may be made with any responsible person or facility in or without the State of Nevada.~~
~~3. The provisions of this section and NRS 435.020 and 435.030 supplement the services which other political subdivisions or agencies of the State are required by law to provide, and do not supersede or relieve the responsibilities of such political subdivisions or agencies.~~ **(Deleted by amendment.)**

Sec. 2. 1. To the extent that money is available for that purpose, the Division of Health Care Financing and Policy of the Department of Health and Human Services and the Aging and Disability Services Division of the Department shall establish a pilot program to provide ~~[wrap around]~~ **intensive care coordination** services to children with intellectual disabilities and children with related conditions who **are also diagnosed as having behavioral health needs and who** reside in a county whose population is 100,000 or more.

2. The ~~wrap-around~~ **intensive care coordination** services provided by the pilot program must include, without limitation:

(a) ~~Preventive services that allow~~ **Medically necessary habilitation or rehabilitation and psychiatric or behavioral therapy provided using evidence-based practices to** a child with intellectual disabilities or a child with a related condition ~~to remain in his or her home;~~ **who is also diagnosed as having behavioral health needs;**

(b) ~~Respite~~ **Support for the family of such a child, including, without limitation, respite** care for the primary caregiver of ~~such a~~ **the** child; ~~and~~

(c) **Coordination of all services provided to such a child and his or her family;**

~~(d)~~ Food and lodging expenses for such a child who ~~resides in a residential facility for groups.~~

~~3. Other wrap-around services that the pilot program may provide include, without limitation:~~

~~(a) Day habilitation;~~

~~(b) Residential support services;~~

~~(c) Consultation, training and intervention to improve behavior;~~

~~(d) Counseling;~~ **is receiving supported living arrangement services and does not reside with his or her parent or guardian;**

~~(e) Nutrition counseling;~~

~~(f) Nursing services;~~

~~(g)~~ Assistance with acquisition of life skills and community participation that is provided in the residence of a child with an intellectual disability or a child with a related condition ~~to~~

~~(h)~~ **who has also been diagnosed as having behavioral health needs;**

~~(i)~~ **(f)** Nonmedical transportation;

~~(j)~~ **(g)** Career planning;

~~(k)~~ **(h)** Supported employment; and

~~(l)~~ **(i)** Prevocational services.

~~4. The cost of providing supplemental services to a child with an intellectual disability or a child with a related condition through the program created pursuant to subsection 1 must not be greater than the cost of placing the child in residential treatment outside this State.~~

~~5.~~ **3. The Division of Health Care Financing and Policy and the Aging and Disability Services Division shall:**

(a) Design and utilize a system to collect and analyze data concerning the evidence-based practices used pursuant to paragraph (a) of subsection 2;

(b) On or before July 1, 2017, obtain an independent evaluation of the effectiveness of the pilot program; and

(c) Collaborate with each person or governmental entity that provides services pursuant to the pilot program to obtain grants for the purpose of carrying out the pilot program. The Division of Health Care Financing and Policy, the Aging and Disability Services Division and any other

governmental entity that provides services pursuant to the pilot program may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the pilot program.

4. The Director of the Department of Health and Human Services shall make any amendments to the State Plan for Medicaid authorized by Federal law and obtain any Medicaid waivers from the Federal Government necessary to use money received pursuant to the State Plan for Medicaid to pay for the pilot program described in subsection 1.

~~16.1~~ 5. As used in this section:

(a) “Children with related conditions” means children who have a severe, chronic disability which:

(1) Is attributable to:

(I) Cerebral palsy or epilepsy; or

(II) Any other condition, other than mental illness, found to be closely related to an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of a child with an intellectual disability and requires treatment or services similar to those required by a child with an intellectual disability;

(2) Is likely to continue indefinitely; and

(3) Results in substantial functional limitations in three or more of the following areas of major life activity:

(I) Taking care of oneself;

(II) Understanding and use of language;

(III) Learning;

(IV) Mobility;

(V) Self-direction; and

(VI) Capacity for independent living.

(b) “Intellectual disability” has the meaning ascribed to it in NRS 435.007.

(c) ~~“Wrap-around”~~ **“Intensive care coordination services”** means ~~supplemental~~ **the delivery of comprehensive services provided to a child with an intellectual disability or a child with a related condition, that is also diagnosed as having behavioral health needs,** or the family of such a child, that are ~~not covered by Medicaid in the absence of a waiver from federal law or regulations,~~ **coordinated by a single entity and delivered in an individualized and culturally appropriate manner.**

(d) **“Supported living arrangement services” means flexible, individualized services provided in a residential setting, for compensation, to a child with an intellectual disability or a person with a related condition who is also diagnosed as having behavioral health needs that are designed and coordinated to assist the person in maximizing the child’s independence, including, without limitation, training and habilitation services.**

Sec. 3. On or before April 30, 2016, and every 6 months thereafter:

1. The Division of Health Care Financing and Policy of the Department of Health and Human Services and the Aging and Disability Services Division of the Department shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, if the Legislature is in session, or to the Legislative Committee on Health Care, if the Legislature is not in session. The report must include, without limitation, a description of the status and results of the pilot program established pursuant to section 2 of this act and recommendations for legislation to facilitate the improvement or expansion of the pilot program.

2. The board of county commissioners of each county whose population is less than 100,000 shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, if the Legislature is in session, or to the Legislative Committee on Health Care, if the Legislature is not in session. The report must include, without limitation, a description of the actions the county is taking to comply with the requirements of NRS 435.010.

Sec. 3.5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the legislature.

Sec. 4. ~~1.1~~ This act becomes effective on July 1, 2015. ~~2. Sections 2 and 3 of this act expire~~, and expires by limitation on July 1, 2019.

Assemblyman Oscarson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 308.

Bill read second time.

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

Amendment No. 501.

AN ACT relating to emergency medical services; ~~revising provisions relating to the provision of~~ **requiring persons who provide** emergency medical services at certain special events ~~to be licensed attendants or exempt from such licensure; exempting special events held in certain small cities from the requirement to provide certain emergency medical services; requiring physicians who staff certain large special events to have experience providing emergency medical services; and providing other matters properly relating thereto.~~

Legislative Counsel's Digest:

Existing law requires the host organization of certain special events to provide particular types of emergency medical services at the special event based on the size of the event and the population of the county in which the special event is held. (NRS 450B.650-450B.700) ~~This~~ **Sections 1-1.7 of this bill require the persons who provide such emergency medical services at a special event to be licensed attendants, physicians, registered nurses or**

physician assistants. Sections 1.9-3 of this bill ~~exempts~~ exempt from ~~these provisions~~ the requirement to provide particular types of emergency medical services a special event held within the boundaries of a city ~~town or township~~ whose population is less than 25,000 ~~it~~ (currently Boulder City, Caliente, Carlin, Elko, Ely, Fallon, Fernley, Lovelock, Mesquite, Wells, West Wendover, Winnemucca and Yerington) if there is a fire-fighting agency within the city and the city has adopted a plan for providing emergency medical service at special events.

Existing law requires the host of a special event in a county whose population is 100,000 or more (currently Clark and Washoe Counties) at which 2,500 or more persons but less than 15,000 persons are projected to be in attendance at the same time to provide at least one dedicated life support ambulance if the event has been held before and there is a history of a significant number of persons who need emergency medical services. (NRS 450B.695) Section 1.8 of this bill revises the number of people that constitutes a significant number from 0.07 percent of attendees to 0.7 percent of attendees.

Existing law requires the host of a special event at which 50,000 or more persons are expected to be in attendance at the same time to provide two or more physicians. (NRS 450B.700) Section 3 of this bill requires those physicians to have experience providing emergency medical services.

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

Section 1. NRS 450B.655 is hereby amended to read as follows:

450B.655 “Dedicated advanced life support ambulance” means an ambulance equipped to provide advanced life support that:

1. Is capable of transporting a patient from a special event to a hospital but, upon delivering the patient, immediately returns to the site of the special event; and

2. Is staffed by:

(a) At least one ~~advanced~~ licensed attendant who is an emergency medical technician and one licensed attendant who is a paramedic; or

(b) At least two other attendants, each with an equivalent or a higher level of skill than the levels described in paragraph (a) ~~it~~ and each of whom is licensed pursuant to this chapter or exempt from licensure pursuant to subsection 6 of NRS 450B.160.

Sec. 1.3. NRS 450B.660 is hereby amended to read as follows:

450B.660 “First-aid station” means a fixed location at the site of a special event that is staffed by ~~it~~ :

1. At least one licensed attendant who is an emergency medical technician, advanced emergency medical technician or paramedic; or ~~it~~

2. A person with a higher level of skill than the levels described in subsection 1 who is capable of providing emergency medical care within his

or her scope of practice ~~[-]~~ **and is licensed pursuant to this chapter or exempt from licensure pursuant to subsection 6 of NRS 450B.160.**

Sec. 1.5. NRS 450B.670 is hereby amended to read as follows:

450B.670 "Roving emergency medical technician team" means a team at the site of a special event that:

1. Consists of two or more **licensed attendants who are** emergency medical technicians, advanced emergency medical technicians or paramedics; and
2. Has the medical supplies necessary to provide emergency medical care.

Sec. 1.7. NRS 450B.675 is hereby amended to read as follows:

450B.675 "Roving intermediate emergency medical technician team" means a roving emergency medical team that consists of two or more **licensed attendants who are** advanced emergency medical technicians or paramedics.

Sec. 1.8. NRS 450B.680 is hereby amended to read as follows:

450B.680 "Significant number" means, with regard to:

1. Contacts by emergency medical personnel with persons who attended a special event, the number of contacts is ~~[-0.07]~~ **0.7** percent or more of the total number of persons who attended the special event; and
2. Patients transported to a hospital, the number of patients transported from the special event to the hospital by ambulance or private vehicle is 15 percent or more of the total number of contacts at the special event by emergency medical personnel with persons who attended the special event.

~~Section 1.9.~~ **Sec. 1.9. NRS 450B.690 is hereby amended to read as follows:**

450B.690 1. **Except as otherwise provided in subsection 2:**

~~(a)~~ **(a)** In a county whose population is 100,000 or more, if a special event ~~at which~~ **is to be held** and 2,500 or more persons but less than 10,000 persons are projected to be in attendance **at the event** at the same time, the host organization shall provide at least one first-aid station at the site of the special event if:

- ~~[(a)]~~ **(1)** The special event is a concert; or
- ~~[(b)]~~ **(2)** Three or more of the following factors apply to the special event:
 - ~~[(1)]~~ **(I)** The special event involves a high-risk activity, including, without limitation, sports or racing.
 - ~~[(2)]~~ **(II)** The special event poses environmental hazards to persons attending the special event or is held during a period of extreme heat or cold.
 - ~~[(3)]~~ **(III)** The average age of the persons attending the special event is less than 25 years of age or more than 50 years of age.
 - ~~[(4)]~~ **(IV)** A large number of the persons attending the special event have acute or chronic illnesses.
 - ~~[(5)]~~ **(V)** Alcohol is sold at the special event or, if the special event has been held before, there is a history of alcohol or drug use by the persons who attended the special event in the past.
 - ~~[(6)]~~ **(VI)** The density of the number of persons attending the special event increases the difficulty regarding ~~[-]~~

~~_____ (1) Access~~ **access** to the persons who are attending the special event who require emergency medical care, ~~or~~ **or**

~~_____ (1) The~~ **the** transfer of those persons who require emergency medical care to an ambulance.

~~_____ (b)~~ **(b)** In a county whose population is 100,000 or more, if the host organization meets the requirements of ~~paragraph (a) or (b) of subsection 1~~ **subparagraph (1) or (2) of paragraph (a)** and 10,000 or more persons but less than 15,000 persons are projected to be in attendance at the special event at the same time, the host organization shall:

~~_____ (1)~~ **(1)** Provide at least one first-aid station at the site of the special event and equip the first-aid station with an automated external defibrillator; and

~~_____ (2)~~ **(2)** Provide a roving emergency medical technician team at the site of the special event.

~~_____ (c)~~ **(c)** In a county whose population is 100,000 or more, if the host organization meets the requirements of ~~paragraph (a) or (b) of subsection 1~~ **subparagraph (1) or (2) of paragraph (a)** and 15,000 or more persons but less than 50,000 persons are projected to be in attendance at the special event at the same time, the host organization shall:

~~_____ (1)~~ **(1)** Provide at least one first-aid station at the site of the special event and staff the first-aid station with at least one registered nurse, licensed practical nurse or paramedic in lieu of an emergency medical technician; and

~~_____ (2)~~ **(2)** Provide two or more roving intermediate emergency medical technician teams at the site of the special event.

2. The provisions of subsection 1 do not apply to a special event held within the boundaries of a city, town or township whose population is less than 25,000 ~~if there is a fire-fighting agency within the city other than a volunteer fire department and the city has adopted a plan for providing emergency medical services at special events.~~

Sec. 2. NRS 450B.695 is hereby amended to read as follows:

450B.695 1. **Except as otherwise provided in subsection 2:**

(a) In a county whose population is 100,000 or more, if a special event ~~at which~~ **is to be held and** 2,500 or more persons but less than 15,000 persons are projected to be in attendance **at the event** at the same time, the host organization shall provide at least one dedicated advanced life support ambulance at the special event if the special event:

~~_____ (1)~~ **(1)** Is located more than 5 miles from the closest hospital; or

~~_____ (2)~~ **(2)** Has been held before and there is a history of a significant number of:

~~_____ (I)~~ **(I)** Contacts by emergency medical personnel with persons who attended the special event to provide emergency medical care to those persons; or

~~_____ (II)~~ **(II)** Persons who attended the special event who were transported as patients from the special event to a hospital.

~~_____ (b)~~ **(b)** In a county whose population is 100,000 or more, if the host organization meets the requirements of ~~paragraph (a) or (b) of subsection 1~~

subparagraph (1) or (2) of paragraph (a) and 15,000 or more persons but less than 50,000 persons are projected to be in attendance at the special event at the same time, the host organization shall provide at least two dedicated advanced life support ambulances at the special event.

2. The provisions of subsection 1 do not apply to a special event held within the boundaries of a city ~~town or township~~ whose population is less than 25,000 ~~if there is a fire-fighting agency within the city other than a volunteer fire department and the city has adopted a plan for providing emergency medical services at special events.~~

Sec. 3. NRS 450B.700 is hereby amended to read as follows:

450B.700 ~~fff~~

1. Except as otherwise provided in subsection 2, if a special event ~~at which~~ **is to be held and** 50,000 or more persons are projected to be in attendance **at the event** at the same time, the host organization shall provide:

~~1-1~~ **(a)** Two or more first-aid stations at the site of the special event;

~~2-1~~ **(b)** Two or more physicians licensed pursuant to chapter 630 or 633 of NRS ~~ff~~

~~3-1~~ **who have experience providing emergency medical services;**

(c) Two or more roving emergency medical technician teams; and

~~4-1~~ **(d)** Two or more dedicated advanced life support ambulances.

2. The provisions of subsection 1 do not apply to a special event held within the limits of a city ~~town or township~~ whose population is less than 25,000 ~~if there is a fire-fighting agency within the city other than a volunteer fire department and the city has adopted a plan for providing emergency medical services at special events.~~

Sec. 4. This act becomes effective on July 1, 2015.

Assemblyman Oscarson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 312.

Bill read second time.

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

Amendment No. 491.

AN ACT relating to the Public Employees' Retirement System; ~~revising provisions governing the minimum age at which a person who becomes a member of the System on or after July 1, 2016, may retire and receive an unreduced benefit;~~ revising provisions governing the calculation of the average compensation of a person who becomes a member of the System on or after July 1, 2016; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law provides that a person who becomes a member of the Public Employees' Retirement System, other than a police officer or firefighter, on or after January 1, 2010, is eligible to retire at age 65 if the member has at least 5~~

~~years of service, at age 60 if the member has at least 10 years of service and at any age if the member has at least 30 years of service. Existing law further provides that a police officer or firefighter who becomes a member of the System on or after January 1, 2010, is eligible to retire at age 65 if the police officer or firefighter has at least 5 years of service, at age 60 if the police officer or firefighter has at least 10 years of service, at age 50 if the police officer or firefighter has at least 20 years of service and at any age if the police officer or firefighter has at least 25 years of service. (NRS 286.510) Section 1 of this bill requires the Public Employees' Retirement Board to establish, by regulation, the age at which a person who becomes a member of the System, other than a police officer or firefighter, on or after July 1, 2016, is eligible to retire and receive an unreduced benefit. The age must be equal to the full retirement age of the member under the Social Security Act. Section 1 also requires the Board to establish the age at which a police officer or firefighter who becomes a member of the System on or after July 1, 2016, is eligible to retire and receive an unreduced benefit. The age must be 10 years less than the full retirement age of the police officer or firefighter under the Social Security Act.]~~

Existing law provides that for a person who becomes a member of the Public Employees' Retirement System on or after January 1, 2010, the member's monthly service retirement allowance must be determined by multiplying the member's average compensation by 2.5 percent for each year of service earned. With certain limitations, the determination of the member's average compensation is based on an average of the member's 36 consecutive months of highest compensation. (NRS 286.551) **Section 2** of this bill provides that for a person who becomes a member of the System on or after July 1, 2016, the determination of the member's average compensation must be based on an average of the member's 60 consecutive months of highest compensation.

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

Section 1. ~~[NRS 286.510 is hereby amended to read as follows:~~
~~286.510 1. Except as otherwise provided in subsections 2 and 3, a~~
~~member of the System:~~
~~—(a) Who has an effective date of membership before January 1, 2010, is~~
~~eligible to retire at age 65 if the member has at least 5 years of service, at age~~
~~60 if the member has at least 10 years of service and at any age if the member~~
~~has at least 30 years of service.~~
~~—(b) Who has an effective date of membership on or after January 1, 2010,~~
~~but before July 1, 2016, is eligible to retire at age 65 if the member has at least~~
~~5 years of service, at age 62 if the member has at least 10 years of service and~~
~~at any age if the member has at least 30 years of service.~~
~~—(c) Who has an effective date of membership on or after July 1, 2016, is~~
~~eligible to retire at the age established by the Board pursuant to paragraph~~

~~(a) of subsection 7 if the member has at least 5 years of service and at any age if the member has at least 30 years of service.~~

~~2. A police officer or firefighter:~~

~~— (a) Who has an effective date of membership before January 1, 2010, is eligible to retire at age 65 if the police officer or firefighter has at least 5 years of service, at age 55 if the police officer or firefighter has at least 10 years of service, at age 50 if the police officer or firefighter has at least 20 years of service and at any age if the police officer or firefighter has at least 25 years of service.~~

~~— (b) Who has an effective date of membership on or after January 1, 2010, but before July 1, 2016, is eligible to retire at age 65 if the police officer or firefighter has at least 5 years of service, at age 60 if the police officer or firefighter has at least 10 years of service and at age 50 if the police officer or firefighter has at least 20 years of service.~~

~~— (c) Who has an effective date of membership on or after July 1, 2016, is eligible to retire at the age established by the Board pursuant to paragraph (b) of subsection 7 if the police officer or firefighter has at least 5 years of service.~~

~~— Only service performed in a position as a police officer or firefighter, established as such by statute or regulation, service performed pursuant to subsection 3 and credit for military service, may be counted toward eligibility for retirement pursuant to this subsection.~~

~~3. Except as otherwise provided in subsection 4, a police officer or firefighter who has at least 5 years of service as a police officer or firefighter and is otherwise eligible to apply for disability retirement pursuant to NRS 286.620 because of an injury arising out of and in the course of the police officer's or firefighter's employment remains eligible for retirement pursuant to subsection 2 if:~~

~~— (a) The police officer or firefighter applies to the Board for disability retirement and the Board approves the police officer's or firefighter's application;~~

~~— (b) In lieu of a disability retirement allowance, the police officer or firefighter accepts another position with the public employer with which the police officer or firefighter was employed when the police officer or firefighter became disabled as soon as practicable but not later than 90 days after the Board approves the police officer's or firefighter's application for disability retirement;~~

~~— (c) The police officer or firefighter remains continuously employed by that public employer until the police officer or firefighter becomes eligible for retirement pursuant to subsection 2; and~~

~~— (d) After the police officer or firefighter accepts a position pursuant to paragraph (b), the police officer's or firefighter's contributions are paid at the rate that is actuarially determined for police officers and firefighters until the police officer or firefighter becomes eligible for retirement pursuant to subsection 2.~~

~~4. If a police officer or firefighter who accepted another position with the public employer with which the police officer or firefighter was employed when the police officer or firefighter became disabled pursuant to subsection 3 ceases to work for that public employer before becoming eligible to retire pursuant to subsection 2, the police officer or firefighter may begin to receive a disability retirement allowance without further approval by the Board by notifying the Board on a form prescribed by the Board.~~

~~5. Eligibility for retirement, as provided in this section, does not require the member to have been a participant in the System at the beginning of the police officer's or firefighter's credited service.~~

~~6. Any member who has the years of creditable service necessary to retire but has not attained the required age, if any, may retire at any age with a benefit actuarially reduced to the required retirement age. Except as otherwise required as a result of NRS 286.537, a retirement benefit pursuant to this subsection must be reduced:~~

~~(a) If the member has an effective date of membership before January 1, 2010, by 4 percent of the unmodified benefit for each full year that the member is under the appropriate retirement age, and an additional 0.33 percent for each additional month that the member is under the appropriate retirement age.~~

~~(b) If the member has an effective date of membership on or after January 1, 2010, by 6 percent of the unmodified benefit for each full year that the member is under the appropriate retirement age, and an additional 0.5 percent for each additional month that the member is under the appropriate retirement age.~~

~~Any option selected pursuant to this subsection must be reduced by an amount proportionate to the reduction provided in this subsection for the unmodified benefit. The Board may adjust the actuarial reduction based upon an experience study of the System and recommendation by the actuary.~~

~~7. The Board shall, by regulation, establish:~~

~~(a) For a member who has an effective date of membership on or after July 1, 2016, and at least 5 years of eligible service, the minimum age at which the member is eligible to retire and receive an unreduced benefit, which must be equal to the full retirement age of the member under the Social Security Act.~~

~~(b) For a police officer or firefighter who has an effective date of membership on or after July 1, 2016, and at least 5 years of eligible service, the minimum age at which the police officer or firefighter is eligible to retire and receive an unreduced benefit, which must be 10 years less than the full retirement age of a police officer or firefighter under the Social Security Act.~~ (Deleted by amendment.)

Sec. 2. NRS 286.551 is hereby amended to read as follows:

286.551 Except as otherwise required as a result of NRS 286.535 or 286.537:

1. Except as otherwise provided in subsection 2:

(a) For a member who has an effective date of membership before January 1, 2010, a monthly service retirement allowance must be determined by multiplying a member's average compensation by 2.5 percent for each year of service earned before July 1, 2001, and 2.67 percent for each year of service earned on or after July 1, 2001.

(b) For a member who has an effective date of membership on or after January 1, 2010, a monthly service retirement allowance must be determined by multiplying a member's average compensation by 2.5 percent for each year of service earned.

2. A member:

(a) Who has an effective date of membership on or after July 1, 1985, is entitled to a benefit of not more than 75 percent of the member's average compensation with the member's eligibility for service credit ceasing at 30 years of service.

(b) Who has an effective date of membership before July 1, 1985, and retires on or after July 1, 1977, is entitled to a benefit of not more than 90 percent of the member's average compensation with the member's eligibility for service credit ceasing at 36 years of service.

➔ In no case may the service retirement allowance determined pursuant to this section be less than the allowance to which the retired employee would have been entitled pursuant to the provisions of this section which were in effect on the day before July 3, 1991.

3. For the purposes of this section, except as otherwise provided in subsections 4, 5 and 6, "average compensation" means :

(a) For a member who has an effective date of membership before July 1, 2016, the average of ~~the~~ the member's 36 consecutive months of highest compensation as certified by the public employer.

(b) For a member who has an effective date of membership on or after July 1, 2016, the average of the member's 60 consecutive months of highest compensation as certified by the public employer.

4. Except as otherwise provided in subsection 5, for an employee who becomes a member of the System on or after January 1, 2010, the following limits must be observed when calculating the member's average compensation based on a 60-month period that commences 24 months immediately preceding the 36 consecutive months of highest compensation:

(a) The compensation for the 13th through the 24th months may not exceed the actual compensation amount for the 1st through the 12th months by more than 10 percent;

(b) The compensation for the 25th through the 36th months may not exceed by more than 10 percent the lesser of:

(1) The maximum compensation amount allowed pursuant to paragraph (a); or

(2) The actual compensation amount for the 13th through the 24th months;

(c) The compensation for the 37th through the 48th months may not exceed by more than 10 percent the lesser of:

(1) The maximum compensation amount allowed pursuant to paragraph (b); or

(2) The actual compensation amount for the 25th through the 36th months; and

(d) The compensation for the 49th through the 60th months may not exceed by more than 10 percent the lesser of:

(1) The maximum average compensation amount allowed pursuant to paragraph (c); or

(2) The actual compensation amount for the 37th through the 48th months.

5. Compensation attributable to a promotion and assignment-related compensation must be excluded when calculating the limits pursuant to subsection 4.

6. The average compensation of a member who has a break in service or partial months of compensation, or both, as a result of service as a Legislator during a regular or special session of the Nevada Legislature must be calculated on the basis of the average of the member's 36 consecutive months of highest compensation as certified by the member's public employer excluding each month during any part of which the Legislature was in session. This subsection does not affect the computation of years of service.

7. The retirement allowance for a regular part-time employee must be computed from the salary which the employee would have received as a full-time employee if it results in greater benefits for the employee. A regular part-time employee is a person who works half-time or more, but less than full-time:

(a) According to the regular schedule established by the employer for the employee's position; and

(b) Pursuant to an established agreement between the employer and the employee.

Sec. 3. This act becomes effective ~~1~~.

~~1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act, and~~

~~2. On on July 1, 2016, ~~1~~ for all other purposes.~~

Assemblyman Ellison moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 324.

Bill read second time.

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

Amendment No. 500.

AN ACT relating to child welfare; revising provisions concerning required requests for the credit report of a child in the custody of an agency which provides child welfare services; revising provisions concerning missing and runaway children; requiring an agency which provides child welfare services that receives information concerning a missing child in the custody of the agency to report such information to a law enforcement agency; requiring the Division of Child and Family Services of the Department of Health and Human Services to adopt certain procedures concerning children who have run away from a foster home; revising requirements concerning permanency hearings; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law that becomes effective on September 29, 2015, requires each child in foster care under the responsibility of the State who is at least 14 years of age to receive a copy of his or her credit report each year until the child is discharged from care. (Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, § 113) **Section 1** of this bill lowers the age of a child for whom an agency which provides child welfare services is required to obtain a credit report under state law from 16 years of age to 14 years of age to conform to this federal requirement.

Existing state law requires a law enforcement agency to request certain identifying information from the parent or guardian of a missing child who is less than 16 years of age or has not been located within 30 days after being reported missing. (NRS 432.200) Existing law also requires a law enforcement agency that receives and verifies a report of a missing child, other than a child who has run away, to immediately transmit the report to the program established by the Attorney General to coordinate activities and information in this State concerning missing or exploited children. (NRS 432.205) **Sections 2 and 3** of this bill instead require a law enforcement agency to request such information and transmit such a report for any child who has been reported missing.

Existing federal law requires a state agency that receives information concerning a missing or abducted child who has been placed in the custody of the agency to report the information immediately to the National Center for Missing and Exploited Children and the National Crime Information Center database established by the Federal Bureau of Investigation. (Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, § 104) **Section 4** of this bill includes this requirement in state law.

Existing federal law requires a state to develop and carry out specific protocols concerning children who have run away from foster care in order to receive certain federal funds. (42 U.S.C. § 671(a)(35)) **Section 5** of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt regulations to implement such protocols.

Existing federal law that becomes effective on September 29, 2015, prohibits the placement of a child who is under 16 years of age in a permanent placement other than with the parent of the child, the adoption of the child or

referral of the child for legal guardianship. (Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, § 112) **Section 6** of this bill authorizes an agency which provides child welfare services that has custody of a child who is 16 years of age or older to present evidence at a permanency hearing that there is a compelling reason for placing such a child in a different permanent living arrangement.

Existing federal law requires a judge at a permanency hearing to: (1) ask the child about his or her desired permanency outcome; (2) if the judge determines that another permanency outcome is better for the child, to explain why; and (3) if the judge determines that it is not in the best interests of the child to return home, be placed for adoption or be placed with a legal guardian or relative, provide compelling reasons for that determination. (42 U.S.C. § 675a(a)(2)) Existing state law requires a judge at a permanency hearing to prepare an explicit statement of the facts upon which he or she based his or her determination regarding the best interests of the child. **Section 6** revises this requirement to meet the federal requirements.

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

Section 1. NRS 432.0395 is hereby amended to read as follows:

432.0395 1. Before an agency which provides child welfare services requests and examines a copy of any credit report pursuant to subsection 2, the agency which provides child welfare services shall, to the greatest extent practicable:

- (a) Inform the child of the requirement to request and examine a copy of any credit report that may exist for the child;
- (b) Explain to the child the process for resolving any inaccuracy discovered on any such credit report; and
- (c) Explain to the child the possible consequences of an inaccuracy on a credit report of the child.

2. An agency which provides child welfare services shall request and examine a copy of any credit report that may exist for each child who remains in the custody of the agency which provides child welfare services for 60 or more consecutive days:

- (a) When the child reaches the age of ~~16~~ 14 years, and then at least once annually thereafter as required pursuant to 42 U.S.C. § 675(5)(I); or
- (b) If the child has reached the age of ~~16~~ 14 years before the child is placed in the custody of the agency which provides child welfare services, within 90 days after the placement of the child in the custody of the agency which provides child welfare services, and then at least once annually thereafter as required pursuant to 42 U.S.C. § 675(5)(I).

3. An agency which provides child welfare services shall determine from the examination of a credit report pursuant to this section whether the credit report contains inaccurate information and whether the credit report indicates that identity theft or any other crime has been committed against the child.

4. If the agency which provides child welfare services determines that an inaccuracy exists in the credit report of a child, the agency which provides child welfare services must:

(a) Report any information which may indicate identity theft or other crime to the Attorney General;

(b) Make a diligent effort to resolve the inaccuracy as soon as practicable; and

(c) If an inaccuracy remains unresolved after the child has left the custody of the agency which provides child welfare services, notify the child or, if the child has not attained the age of majority, the person responsible for the child's welfare:

(1) That an inaccuracy exists in the credit report of the child;

(2) Of the manner in which to correct the inaccuracy; and

(3) Of any services that may be available in the community to provide assistance in correcting the inaccuracy.

5. An agency which provides child welfare services may, upon consent of a child who remains under the jurisdiction of a court pursuant to NRS 432B.594, continue to request and examine a credit report of the child and provide assistance to the child if an inaccuracy is discovered.

6. The Attorney General may investigate each potential instance of identity theft or crime reported pursuant to subsection 4 and prosecute in accordance with law each person responsible for any identity theft identified in the investigation.

Sec. 2. NRS 432.200 is hereby amended to read as follows:

432.200 1. A law enforcement agency shall accept every report of a missing child which is submitted to the agency, including, but not limited to, a report made by telephone. Upon receipt of such a report, the agency shall immediately conduct a preliminary investigation and classify the cause of the disappearance of the child as "runaway," "abducted by the parent of the child," "abducted by a stranger" or "cause of disappearance unknown," and shall:

(a) Transmit all available information about the child to the Clearinghouse within 36 hours after the report is received;

(b) Immediately notify such persons and make such inquiries concerning the missing child as the agency deems necessary;

(c) Fully comply with the requirements of the National Child Search Assistance Act of 1990, ~~{Title XXXVII of Public Law 101-647, 104 Stat. 4966;}~~ **42 U.S.C. §§ 5779 and 5780;** and

(d) Enter into the National Crime Information Center's Missing Person File, as miscellaneous information, any person reasonably believed to have unlawfully abducted or detained the missing child, or aided or abetted the unlawful abduction or detention.

2. A law enforcement agency which has jurisdiction over the investigation of an abducted child and which has obtained a warrant for the arrest of a person suspected in the child's disappearance or concealment shall immediately

notify the National Crime Information Center for the entry into the Center's Wanted Person File of identifying and descriptive information concerning:

- (a) The suspect; and
- (b) As miscellaneous information, the missing child.

↪ The agency shall cross-reference information entered pursuant to this section with the National Crime Information Center's Missing Person File.

3. ~~If a missing child is less than 16 years of age or has not been located within 30 days after~~ **After** a report is filed, the law enforcement agency that received the initial report shall:

- (a) Send to the child's parent or guardian a request for certain identifying information regarding the child that the National Crime Information Center recommends be provided; and

- (b) Ask the child's parent or guardian to provide such identifying information regarding the child.

↪ This subsection does not preclude the voluntary release of identifying information about the missing child by the parent or guardian of the child at any time.

4. The parent or guardian of a child reported as missing shall promptly notify the appropriate law enforcement agency if the child is found or returned. The law enforcement agency shall then transmit that fact to the National Crime Information Center and the Clearinghouse.

5. Nothing in this section requires a law enforcement agency to activate the Statewide Alert System for the Safe Return of Abducted Children created by NRS 432.340.

Sec. 3. NRS 432.205 is hereby amended to read as follows:

432.205 1. A law enforcement agency, upon receiving and verifying a report of a missing child, ~~for other than a child who has run away,~~ shall immediately transmit the full contents of the report by the fastest means available to the Clearinghouse.

2. The Clearinghouse shall, upon receipt of the report, immediately notify any governmental agency in possession of the birth certificate of the child and the superintendent of schools of the school district in possession of the educational records of the child that the child is missing.

3. Upon receiving such notification, the agency or superintendent shall:

- (a) Maintain the birth certificate or educational records in such a manner as to ensure that the Clearinghouse is notified immediately if a request is made for the birth certificate or educational records.

- (b) Immediately notify the Clearinghouse upon receiving any such request before releasing the birth certificate or educational records, including notification of the identity and location or address of the person making the request.

- (c) Not disclose to the person making the request any communication with the Clearinghouse or the fact that a communication must be made.

Sec. 4. NRS 432B.165 is hereby amended to read as follows:

432B.165 1. For purposes of assisting in locating a missing child who is the subject of an investigation of abuse or neglect and who is in the protective custody of an agency which provides child welfare services or in the custody of another entity pursuant to an order of the juvenile court, an agency which provides child welfare services may provide the following information to a federal, state or local governmental entity, or an agency of such an entity, that needs access to the information to carry out its legal responsibilities to protect children from abuse or neglect:

- (a) The name of the child;
- (b) The age of the child;
- (c) A physical description of the child; and
- (d) A photograph of the child.

2. Information provided pursuant to subsection 1 is not confidential and may be disclosed to any member of the general public upon request.

3. *An agency which provides child welfare services that receives information concerning a child who has been placed in the custody of the agency who is missing, including, without limitation, a child who has run away or has been abducted, shall report the information to the appropriate law enforcement agency as soon as practicable, but not later than 24 hours after receiving such information, for investigation pursuant to NRS 432.200.*

Sec. 5. NRS 432B.190 is hereby amended to read as follows:

432B.190 The Division of Child and Family Services shall, in consultation with each agency which provides child welfare services, adopt:

1. Regulations establishing reasonable and uniform standards for:

- (a) Child welfare services provided in this State;
- (b) Programs for the prevention of abuse or neglect of a child and the achievement of the permanent placement of a child;
- (c) The development of local councils involving public and private organizations;
- (d) Reports of abuse or neglect, records of these reports and the response to these reports;
- (e) Carrying out the provisions of NRS 432B.260, including, without limitation, the qualifications of persons with whom agencies which provide child welfare services enter into agreements to provide services to children and families;
- (f) The management and assessment of reported cases of abuse or neglect;
- (g) The protection of the legal rights of parents and children;
- (h) Emergency shelter for a child;
- (i) The prevention, identification and correction of abuse or neglect of a child in residential institutions;

(j) Developing and distributing to persons who are responsible for a child's welfare a pamphlet that is written in language which is easy to understand, is available in English and in any other language the Division determines is appropriate based on the demographic characteristics of this State and sets forth:

(1) Contact information regarding persons and governmental entities which provide assistance to persons who are responsible for the welfare of children, including, without limitation, persons and entities which provide assistance to persons who are being investigated for allegedly abusing or neglecting a child;

(2) The procedures for taking a child for placement in protective custody; and

(3) The state and federal legal rights of:

(I) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of a child, including, without limitation, the legal rights of such a person at the time an agency which provides child welfare services makes initial contact with the person in the course of the investigation and at the time the agency takes the child for placement in protective custody, and the legal right of such a person to be informed of any allegation of abuse or neglect of a child which is made against the person at the initial time of contact with the person by the agency; and

(II) Persons who are parties to a proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive, during all stages of the proceeding; and

(k) Making the necessary inquiries required pursuant to NRS 432B.397 to determine whether a child is an Indian child.

2. Regulations, which are applicable to any person who is authorized to place a child in protective custody without the consent of the person responsible for the child's welfare, setting forth reasonable and uniform standards for establishing whether immediate action is necessary to protect the child from injury, abuse or neglect for the purposes of determining whether to place the child into protective custody pursuant to NRS 432B.390. Such standards must consider the potential harm to the child in remaining in his or her home, including, without limitation:

(a) Circumstances in which a threat of harm suggests that a child is in imminent danger of serious harm.

(b) The conditions or behaviors of the child's family which threaten the safety of the child who is unable to protect himself or herself and who is dependent on others for protection, including, without limitation, conditions or behaviors that are beyond the control of the caregiver of the child and create an imminent threat of serious harm to the child.

➡ The Division of Child and Family Services shall ensure that the appropriate persons or entities to whom the regulations adopted pursuant to this subsection apply are provided with a copy of such regulations. As used in this subsection, "serious harm" includes the threat or evidence of serious physical injury, sexual abuse, significant pain or mental suffering, extreme fear or terror, extreme impairment or disability, death, substantial impairment or risk of substantial impairment to the child's mental or physical health or development.

3. ***Regulations establishing procedures for:***

(a) ***Expediently locating any missing child who has been placed in the custody of an agency which provides child welfare services;***

(b) Determining the primary factors that contributed to a child who has been placed in the custody of an agency which provides child welfare services running away or otherwise being absent from foster care, and to the extent possible and appropriate, responding to those factors in current and subsequent placements; and

(c) Determining the experiences of a child who has been placed in the custody of an agency which provides child welfare services during any period the child was missing, including, without limitation, determining whether the child may be a victim of sexual abuse or sexual exploitation.

4. Such other regulations as are necessary for the administration of NRS 432B.010 to 432B.606, inclusive.

Sec. 6. NRS 432B.590 is hereby amended to read as follows:

432B.590 1. Except as otherwise provided in NRS 432B.513, the court shall hold a hearing concerning the permanent placement of a child:

(a) Not later than 12 months after the initial removal of the child from the home of the child and annually thereafter.

(b) Within 30 days after making any of the findings set forth in subsection 3 of NRS 432B.393.

➔ Notice of this hearing must be given by registered or certified mail to all the persons to whom notice must be given pursuant to subsection 6 of NRS 432B.580.

2. The court may require the presence of the child at the hearing and shall provide to each person to whom notice was given pursuant to subsection 1 a right to be heard at the hearing.

3. At the hearing, the court shall review any plan for the permanent placement of the child adopted pursuant to NRS 432B.553 ~~for~~ **and, if the goal of the plan is a permanent living arrangement other than reunification with his or her parents, placement for adoption, placement with a legal guardian or placement with a relative, ask the child about his or her desired permanent placement and determine, living arrangement. After doing so, the court must determine:**

(a) Whether the agency with legal custody of the child has made the reasonable efforts required by subsection 1 of NRS 432B.553;

(b) Whether, and if applicable when:

(1) The child should be returned to the parents of the child or placed with other relatives;

(2) It is in the best interests of the child to:

(I) Initiate proceedings to terminate parental rights pursuant to chapter 128 of NRS so that the child can be placed for adoption;

(II) Initiate proceedings to establish a guardianship pursuant to chapter 159 of NRS; or

(III) Establish a guardianship in accordance with NRS 432B.466 to 432B.468, inclusive; or

(3) The agency with legal custody of the child has produced documentation of its conclusion that there is a compelling reason for the

placement of ~~the~~ a child **who has attained the age of 16 years** in another permanent living arrangement;

(c) If the child will not be returned to the parents of the child, whether the agency with legal custody of the child fully considered placement options both within and outside of this State;

(d) If the child has attained the age of ~~16~~ 14 years, whether the child will receive the services needed to assist the child in transitioning to independent living; and

(e) If the child has been placed outside of this State, whether the placement outside of this State continues to be appropriate for and in the best interests of the child.

~~{→}~~

4. The court shall prepare an explicit statement of the facts upon which each of its determinations is based ~~{→}~~ **pursuant to subsection 3. If the court determines that it is not in the best interests of the child to be returned to his or her parents, or to be placed for adoption, with a legal guardian or with a relative, the court ~~shall~~ must include ~~the~~ compelling reasons for this determination and an explanation of those reasons in its statement of the facts. ~~If the court determines that a permanent placement other than that desired by the child is in the best interests of the child, the court must also include an explanation of the reasons for this determination with its statement of the facts.~~**

5. If the court determines that it is in the best interests of the child to terminate parental rights, the court shall use its best efforts to ensure that the procedures required by chapter 128 of NRS are completed within 6 months after the date the court makes that determination, including, without limitation, appointing a private attorney to expedite the completion of the procedures.

6. The provisions of this ~~subsection~~ **section** do not limit the jurisdiction of the court to review any decisions of the agency with legal custody of the child regarding the permanent placement of the child.

~~{4→}~~ 7. If a child has been placed outside of the home and has resided outside of the home pursuant to that placement for 14 months of any 20 consecutive months, the best interests of the child must be presumed to be served by the termination of parental rights.

~~{5→}~~ 8. This hearing may take the place of the hearing for review required by NRS 432B.580.

~~{6→}~~ 9. The provision of notice and a right to be heard pursuant to this section does not cause any person planning to adopt the child, any sibling of the child or any other relative, any adoptive parent of a sibling of the child or a provider of foster care to become a party to the hearing.

Sec. 7. This act becomes effective on July 1, 2015.

Assemblyman Oscarson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 325.

Bill read second time.

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

Amendment No. 373.

ASSEMBLYMEN SPRINKLE, KIRKPATRICK, ~~+~~, SEAMAN; AND O'NEILL.

AN ACT relating to private professional guardians; requiring licensing for persons engaged in the business of a private professional guardian; establishing the requirements for the licensing and operation of a private professional guardian company; amending provisions related to the appointment of a private professional guardian; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the court appointment of a private professional guardian to act as a fiduciary for a person or estate, but does not require the private professional guardian to be licensed. (NRS 159.0595) This bill requires the licensing of persons engaging in the business of a private professional guardian and authorizes the Commissioner of Financial Institutions to adopt regulations relating to the licensing of those persons.

Sections 15-17 of this bill make it unlawful for a person to act as a private professional guardian without being licensed. **Sections 18-26** of this bill establish the requirements and application process to obtain a license to transact the business of a private professional guardian. **Section 28** of this bill sets forth requirements relating to the change of ownership or transfer of assets of a private professional guardian company. **Section 29** of this bill establishes the process for the renewal of a license. **Section 30** of this bill establishes the process for surrender of a license.

Section 31 of this bill requires a licensee to keep a principal office in this State. **Section 32** of this bill establishes procedures for the Commissioner to approve an out-of-state office of a private professional guardian company. **Section 33** of this bill requires a licensee to maintain certain types and levels of bonds and insurance.

Section 35 of this bill establishes the rights and authority of a licensee. **Section 36** of this bill prohibits certain activities by a licensee. **Sections 37-41** of this bill establish requirements for accounting, reporting and auditing of a private professional guardian company and authorize the Commissioner or a designee to inspect certain records of a private professional guardian company.

Sections 42-46 of this bill establish procedures for the Commissioner to take administrative action against licensees. **Sections 47 and 48** of this bill establish procedures for handling a complaint against a private professional guardian company. **Sections 49 and 50** of this bill provide administrative and criminal penalties for violating certain provisions of this bill.

Existing law requires that, subject to certain exceptions, a person must be a resident of this State to be appointed as guardian for a ward. (NRS 159.059) Sections 50.5 and 51.5 of this bill provide that a relative

who is not located in this State must be given preference for appointment as guardian over a private professional guardian, if the relative is willing to serve and is otherwise determined to be qualified and suitable, and may be appointed if no other suitable person exists.

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 50, inclusive, of this act.

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

1. *There exists in this State a need, in order to provide for the protection of the public interest, to regulate persons engaged in the business of private professional guardians.*

2. *Persons engaging in the business of private professional guardians must be licensed and regulated in such a manner as to promote advantages and convenience for the public while protecting the public interest.*

3. *It is the purpose of this chapter to bring under public supervision persons who are engaged in or who desire to engage in the business of a private professional guardian and to ensure that there is established in this State an adequate, efficient and competitive private professional guardian service available to the courts and the public at large.*

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 11, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 4. *“Business of a private professional guardian” means the holding out by a person, through advertising, solicitation or other means, that the person is available to act for compensation as a private professional guardian.*

Sec. 5. *“Commissioner” means the Commissioner of Financial Institutions.*

Sec. 6. *“Director” means the Director of the Department of Business and Industry.*

Sec. 7. *“Division” means the Division of Financial Institutions of the Department of Business and Industry.*

Sec. 8. *“Fiduciary” means a person who has the power and authority to act for a beneficiary under circumstances requiring trust, good faith and honesty.*

Sec. 9. *“Private professional guardian” has the meaning ascribed to it in NRS 159.024.*

Sec. 10. *“Private professional guardian company” means a natural person or business entity, including, without limitation, a sole proprietorship, partnership, limited liability company or corporation, that is licensed pursuant to the provisions of this chapter to engage in the business*

of a private professional guardian, whether appointed by a court or hired by a private party.

Sec. 11. *“Ward” has the meaning ascribed to it in NRS 159.027.*

Sec. 12. *This chapter does not apply to a person who:*

- 1. Is a public guardian or administrator appointed by the court;*
- 2. Is appointed as a fiduciary pursuant to NRS 662.245;*
- 3. Is acting in the performance of his or her duties as an attorney at law;*
- 4. Acts as a trustee under a deed of trust;*
- 5. Acts as a fiduciary under a court trust; or*
- 6. Acts as a fiduciary as an individual or a family member.*

Sec. 13. *The Commissioner shall administer and enforce the provisions of this chapter subject to the administrative supervision of the Director.*

Sec. 14. *The Commissioner may adopt regulations to carry out the provisions of this chapter.*

Sec. 15. *It is unlawful for any person to engage in the business of a private professional guardian without having a license issued by the Commissioner pursuant to this chapter.*

Sec. 16. *A person who does not have a license issued pursuant to this chapter shall not:*

- 1. Use the term “private professional guardian” or “guardianship services” as a part of his or her business name.*
- 2. Advertise or use any sign which includes the term “private professional guardian.”*

Sec. 17. 1. *The Commissioner shall conduct an investigation if he or she receives a verified complaint that an unlicensed person is engaging in an activity for which a license is required pursuant to this chapter.*

2. *If the Commissioner determines that an unlicensed person is engaged in an activity for which a license is required pursuant to this chapter, the Commissioner shall issue and serve on the person an order to cease and desist from engaging in the activity until such time as the person obtains a license issued by the Commissioner.*

3. *If a person upon whom an order to cease and desist is served pursuant to subsection 2 does not comply with the order within 30 days after the service of the order, the Commissioner shall, after providing to the person notice and an opportunity for a hearing:*

- (a) Impose upon the person an administrative fine of \$10,000; or*
- (b) Enter into a written agreement with the person pursuant to which the person agrees to cease and desist from engaging in any activity in this State for which a license is required relating to the business of a private professional guardian and impose upon the person an administrative fine of not less than \$5,000 and not more than \$10,000.*

4. *The Commissioner shall bring suit in the name and on behalf of the State of Nevada against a person upon whom an administrative fine is imposed pursuant to subsection 3 to recover the amount of the administrative fine if:*

(a) No petition for judicial review is filed pursuant to NRS 233B.130 and the fine remains unpaid for at least 90 days after notice of the imposition of the fine; or

(b) A petition for judicial review is filed pursuant to NRS 233B.130 and the fine remains unpaid for at least 90 days after the exhaustion of any right of appeal in the courts of this State resulting in a final determination that upholds the imposition of the fine.

5. A person's liability for an administrative fine is in addition to any other penalty provided for in this chapter.

Sec. 18. 1. A person wishing to engage in the business of a private professional guardian in this State must file with the Commissioner an application on a form prescribed by the Commissioner, which must contain or be accompanied by such information as is required.

2. A nonrefundable fee of not more than \$750 must accompany the application. The applicant must also pay such reasonable additional expenses incurred in the process of investigation as the Commissioner deems necessary.

3. The application must contain:

(a) The name of the applicant and the name under which the applicant does business or expects to do business, if different.

(b) The complete business and residence addresses of the applicant.

(c) The character of the business sought to be carried on.

(d) The address of any location where business will be transacted.

(e) In the case of a firm or partnership, the full name and residence address of each member or partner and the manager.

(f) In the case of a corporation or voluntary association, the name and residence address of each director and officer and the manager.

(g) A statement, under penalty of perjury that the applicant has complied with the provisions of NRS 159.059 and 159.0595.

(h) Any other information reasonably related to the applicant's qualifications for the license which the Commissioner determines to be necessary.

4. Each application for a license must have attached to it a financial statement showing the assets, liabilities and net worth of the applicant.

5. In addition to any other requirements, each applicant or member, partner, director, officer, manager or case manager of an applicant shall submit to the Commissioner a complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

6. If the applicant is a corporation or limited-liability company, the articles of incorporation or articles of organization must contain:

(a) The name adopted by the private professional guardian company, which must distinguish it from any other private professional guardian

company formed or incorporated in this State or engaged in the business of a private professional guardian in this State; and

(b) The purpose for which it is formed.

7. *The Commissioner shall deem an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is submitted to the Commissioner. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays the required fees.*

8. *The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section, subject to the following limitations:*

(a) An initial fee of not more than \$1,500 for a license to transact the business of a private professional guardian; and

(b) A fee of not more than \$300 for each branch office that is authorized by the Commissioner.

9. *All money received by the Commissioner pursuant to this section must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.*

Sec. 19. 1. *In addition to any other requirements set forth in this chapter:*

(a) An applicant for the issuance of a license to engage in the business of a private professional guardian shall include the social security number of the applicant or applicants in the application submitted to the Commissioner.

(b) An applicant for the issuance or renewal of a license to engage in the business of a private professional guardian shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. *The Commissioner shall include the statement required pursuant to subsection 1 in:*

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

(b) A separate form prescribed by the Commissioner.

3. *A license may not be issued or renewed by the Commissioner if the applicant:*

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

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

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

Sec. 20. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to engage in the business of a private professional guardian shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Commissioner.

3. A license may not be issued or renewed by the Commissioner if the applicant:

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

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

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

Sec. 21. 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license to engage in the business of a private professional guardian, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has

complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate a license that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 22. 1. Within 90 days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That each person who will serve as a sole proprietor, partner of a partnership, member of a limited-liability company or director or officer of a corporation, and any person acting in a managerial or case manager capacity, as applicable:

(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to engage in the business of a private professional guardian in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of those qualifications, including, without limitation, evidence that the applicant has passed an examination for private professional guardians specified by the Commissioner.

(2) Has not been convicted of, or entered a plea of guilty or nolo contendere to, a felony or any crime involving fraud, misrepresentation, material omission, misappropriation, conversion or moral turpitude.

(3) Has not made a false statement of material fact on the application.

(4) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license issued pursuant to the provisions of this chapter was suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.

(5) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license as a private professional guardian company which was issued by any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.

(6) Has not violated any of the provisions of this chapter or any regulations adopted pursuant thereto.

(b) That the financial status of each sole proprietor, partner, member or director and officer of the corporation and person acting in a managerial or

case manager capacity indicates fiscal responsibility consistent with his or her position.

(c) That the name of the proposed business complies with all applicable statutes.

(d) That, except as otherwise provided in section 33 of this act, the initial surety bond is not less than the amount required by NRS 159.065.

2. In rendering a decision on an application for a license, the Commissioner shall consider, without limitation:

(a) The proposed markets to be served and, if they extend outside this State, any exceptional risk, examination or supervision concerns associated with those markets;

(b) Whether the proposed organizational and equity structure and the amount of initial equity or fidelity and surety bonds of the applicant appear adequate in relation to the proposed business and markets, including, without limitation, the average level of assets under guardianship projected for each of the first 3 years of operation; and

(c) Whether the applicant has planned suitable annual audits conducted by qualified outside auditors of its books and records and its fiduciary activities under applicable accounting rules and standards as well as suitable internal audits.

Sec. 23. 1. After conducting an investigation pursuant to section 22 of this act, if the Commissioner finds grounds for the denial of the application, the Commissioner shall provide to the applicant written notice of such grounds by personal service or certified mail.

2. The applicant may cure any defect or deficiency in the application and, not more than 30 days after receipt of the notice pursuant to subsection 1, resubmit the application for approval.

3. If an application is not approved, the Commissioner shall provide to the applicant written notice of the denial by personal service or certified mail. The applicant may request a hearing before the Commissioner, but if no such application is made within 30 days after the entry of an order refusing a license to any person, the Commissioner shall enter a final order.

4. The decision of the Commissioner is final for the purposes of judicial review.

Sec. 24. The Commissioner shall approve the application for a license, keeping on file his or her findings of fact pertaining thereto, if the Commissioner finds that the applicant has met all the requirements of this chapter pertaining to the applicant's qualifications and application.

Sec. 25. 1. If the Commissioner approves an application pursuant to section 24 of this act and the applicant pays the required fees, the Commissioner shall issue to the applicant a license to engage in the business of a private professional guardian.

2. A license issued pursuant to subsection 1 must contain:

(a) The name of the licensee.

(b) The locations by street and number where the licensee is authorized to engage in business.

(c) The number and the date of issuance of the license.

(d) That the license is issued pursuant to this chapter and that the licensee is authorized to engage in the business of a private professional guardian under this chapter.

(e) The expiration date of July 1 of the next year.

Sec. 26. 1. *The Commissioner shall maintain in the Office of the Commissioner, in a suitable record provided for that purpose, each application for a license and all bonds required to be filed pursuant to this chapter. The record must state the date of issuance or denial of the license and the date and nature of any action taken relating to an application.*

2. *Each license issued by the Commissioner must be sufficiently identified in the record.*

3. *Each renewal of a license must be recorded in the same manner as the original license, and the number of the preceding license issued must be recorded.*

Sec. 27. *Each license issued pursuant to this chapter must be conspicuously displayed in the place of business designated in the license.*

Sec. 28. 1. *A license issued pursuant to this chapter is not transferable or assignable, but upon the approval of the Commissioner and any applicable court of jurisdiction, a licensee may merge or consolidate with, or transfer its assets and control to, another person who holds a license pursuant to this chapter. In determining whether to grant the approval, the Commissioner may consider the factors set forth in section 22 of this act.*

2. *If a change in the control of a private professional guardian company occurs, the chief executive officer or managing member of the company shall report the change in control and the name of the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.*

3. *A private professional guardian company shall, within 5 business days after a change in the chief executive officer, managing member or a majority of the directors or managing directors of the company occurs, report the change to the Commissioner. The company shall include in its report to the Commissioner a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.*

4. *A person who intends to acquire control of a private professional guardian company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation pursuant to section 22 of this act to determine whether the person has a good reputation for honesty,*

trustworthiness and integrity and is competent to control the private professional guardian company in a manner which protects the interests of the general public.

5. *The private professional guardian company of which the applicant intends to acquire control shall pay the nonrefundable cost of the investigation as required by the Commissioner. If the Commissioner denies the application, the Commissioner may prohibit or limit the applicant's participation in the business.*

6. *As used in this section, "control" means the possession, directly or indirectly, of the authority to direct or cause the direction of the management and policy of a private professional guardian company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, the company.*

Sec. 29. 1. *A private professional guardian company wishing to renew a license to engage in the business of a private professional guardian shall file in the Office of the Commissioner, on or before the June 1 of the year after the year of the original issuance of the license, an application, which must contain, without limitation, the number of the license being renewed. The application for renewal must be accompanied by a renewal fee of not more than \$1,500 and all information required to complete the application.*

2. *The Commissioner shall issue a renewal license to the applicant, which must be dated July 1 next ensuing the date of the application, in form and text similar to the original except that, in addition, the renewal must include the date and number of the earliest license issued.*

3. *All requirements of this chapter with respect to original licenses and bonds apply to all renewal licenses and bonds, except as otherwise provided in this section.*

4. *The Commissioner shall refuse to renew a license if at the time of application a proceeding to revoke or suspend the license is pending.*

5. *The Commissioner shall adopt regulations establishing the amount of the fee required pursuant to this section. All money collected under the provisions of this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.*

Sec. 30. *If any private professional guardian company wishes to discontinue its business, the company shall furnish to the Commissioner satisfactory evidence of the release and discharge from all obligations which the company has assumed or which have been imposed by law. Thereafter, the Commissioner shall enter an order cancelling the license of the private professional guardian company.*

Sec. 31. 1. *A private professional guardian company licensed pursuant to this chapter shall maintain its principal office in this State.*

2. *To qualify as the principal office for the purposes of subsection 1, an office of the private professional guardian company must:*

(a) *Have a verifiable physical location in this State at which the private professional guardian company conducts such business operations in this*

State as are necessary to administer private professional guardianships in this State;

(b) Have available at the office a private professional guardian who is licensed pursuant to this chapter, a permanent resident of this State and at least 21 years of age;

(c) Have any license issued pursuant to this chapter conspicuously displayed;

(d) Have available at the office originals or true copies of all material business records and accounts of the private professional guardian company, which must be readily available to access and readily available for examination by the Division;

(e) Have available to the public written procedures for making claims against the surety bond required to be maintained pursuant to section 33 of this act;

(f) Have available all services to residents of this State which are consistent with the business plan of the private professional guardian company included with the application for a license; and

(g) Comply with any other requirements specified by the Commissioner.

Sec. 32. 1. It is unlawful for any person licensed pursuant to this chapter to engage in the business of a private professional guardian at any office outside this State without the prior approval of the Commissioner.

2. Before the Commissioner will approve a branch to be located outside this State, the private professional guardian must:

(a) Obtain from that state any required license as a private professional guardian; or

(b) Provide proof satisfactory to the Commissioner that the private professional guardian company has met all the requirements to engage in the business of a private professional guardian in that state pursuant to its laws, including, without limitation, written documentation from the appropriate court or state agency that the private professional guardian company is authorized to do business in that state.

3. For each branch location of a private professional guardian company organized under the laws of this State, and every branch location in this State of a foreign private professional guardian company authorized to do business in this State, a request for approval and licensing must be filed with the Commissioner on forms prescribed by the Commissioner. A nonrefundable fee of not more than \$500, as provided by the Commissioner, must accompany each request. In addition, a fee of not more than \$200, to be prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the request. Money collected pursuant to this section must be deposited in the Investigative Account for Financial Institutions created by NRS 232.545.

4. A foreign corporation or limited-liability company wishing to engage in the business of a private professional guardian in this State must use a

name that distinguishes it from any other private professional guardian in this State.

Sec. 33. 1. The Commissioner may require a private professional guardian company to maintain equity, fidelity and surety bonds in amounts that are more than the minimum required initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the business plan of the private professional guardian or other information contained in the application, the Commissioner's investigation of the application or any examination of or filing by the private professional guardian company thereafter, including, without limitation, any examination before the opening of the business. In making such a determination, the Commissioner may consider, without limitation:

(a) The nature and type of business to be conducted by the private professional guardian company;

(b) The nature and liquidity of assets proposed to be held in the account of the private professional guardian company;

(c) The amount of fiduciary assets projected to be under the management or administration of the private professional guardian company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of the fiduciary duties and degree of discretion proposed to be undertaken by the private professional guardian company;

(f) The competence and experience of the proposed management of the private professional guardian company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The adequacy of fidelity and surety bonds and any additional insurance proposed to be obtained by the private professional guardian company for the purpose of protecting its fiduciary assets;

(k) The success of the private professional guardian company in achieving the financial projections submitted with its application for a license; and

(l) The fulfillment by the private professional guardian company of its representations and its descriptions of its business structures and methods and management set forth in its application for a license.

2. The director or manager of a private professional guardian company shall require fidelity bonds in the amount of at least \$25,000 on the sole proprietor or each active officer, manager, member acting in a managerial or case manager capacity and employee, regardless of whether the person receives a salary or other compensation from the private professional guardian company, to indemnify the company against loss due to any

dishonest, fraudulent or criminal act or omission by a person upon whom a bond is required pursuant to this section who acts alone or in combination with any other person. A bond required pursuant to this section may be in any form and may be paid for by the private professional guardian company.

3. A private professional guardian company shall obtain suitable insurance against burglary, robbery, theft and other hazards to which it may be exposed in the operation of its business.

4. A private professional guardian company shall obtain suitable surety bonds in accordance with NRS 159.065, as applicable.

5. The surety bond obtained pursuant to subsection 4 must be in a form approved by a court of competent jurisdiction and the Division and conditioned that the applicant conduct his or her business in accordance with the requirements of this chapter. The bond must be made and executed by the principal and a surety company authorized to write bonds in this State.

6. A private professional guardian company shall at least annually prescribe the amount or penal sum of the bonds or policies of the company and designate the sureties and underwriters thereof, after considering all known elements and factors constituting a risk or hazard. The action must be recorded in the minutes kept by the private professional guardian company and reported to the Commissioner.

7. The bond must cover all matters placed with the private professional guardian company during the term of the license or a renewal thereof.

8. An action may not be brought upon any bond after 2 years from the revocation or expiration of the license.

9. After 2 years, all liability of the surety or sureties upon the bond ceases if no action is commenced upon the bond.

Sec. 34. The Commissioner shall revoke the license of a private professional guardian company:

1. If the private professional guardian company fails to open for business within 6 months after the date the license was issued, or within an additional 6-month extension granted by the Commissioner upon written application and for good cause shown; or

2. If the private professional guardian company fails for more than 30 consecutive days to maintain regular business hours or otherwise conduct the business of a private professional guardian.

Sec. 35. Each private professional guardian company which is licensed pursuant to this chapter may, in the conduct of its business activities, within and outside this State, as applicable:

1. Act under the order or appointment of any court as guardian.

2. Accept and execute any activities and duties relating to the business of a private professional guardian as permitted by any law.

3. Exercise the powers of a corporation, partnership or limited-liability company organized or qualified as a foreign corporation, partnership or limited-liability company under the laws of this State and any incidental powers that are reasonably necessary to enable it to exercise, in accordance

with commonly accepted customs and usages, a power conferred by this chapter.

4. *Perform any act authorized by this chapter and any other applicable laws of this State.*

Sec. 36. 1. *The fiduciary relationship which exists between a private professional guardian and the ward of the private professional guardian may not be used for the private gain of the guardian other than the remuneration for fees and expenses. A private professional guardian may not incur any obligation on behalf of the guardianship that conflicts with the discharge of the duties of the private professional guardian.*

2. *Unless prior approval is obtained from a court of competent jurisdiction, a private professional guardian shall not:*

(a) *Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship.*

(b) *Acquire an ownership, possessory, security or other pecuniary interest adverse to the ward.*

(c) *Be knowingly designated as a beneficiary on any life insurance policy, pension or benefit plan of the ward unless such designation was validly made by the ward before the adjudication of the person's incapacity.*

(d) *Directly or indirectly purchase, rent, lease or sell any property or services from or to any business entity in which the private professional guardian, or the spouse or relative of the guardian, is an officer, partner, director, shareholder or proprietor or in which such a person has any financial interest.*

3. *Any action taken by a private professional guardian which is prohibited by this section may be voided during the term of the guardianship or by the personal representative of the ward's estate. The private professional guardian is subject to removal and to imposition of personal liability through a proceeding for discharge, in addition to any other remedies otherwise available.*

4. *A court shall not appoint a private professional guardian that is not licensed pursuant to this chapter as the guardian of a person or estate. The court must review each guardianship involving a private professional guardian on the anniversary date of the appointment of the private professional guardian. If a private professional guardian does not hold a current license, the court must replace the guardian until such time as the private professional guardian obtains the necessary license.*

5. *The provisions of NRS 159.076 regarding summary administration do not apply to a private professional guardian.*

6. *A licensee shall file any report required by the court in a timely manner.*

Sec. 37. 1. *Except as otherwise provided in NRS 159.076, a licensee shall maintain a separate ~~trust~~ guardianship account for each ward into which all money received for the benefit of the ward must be deposited. Each ~~trust~~ guardianship account must be maintained in an insured bank or*

credit union located in this State, be held in a name which is sufficient to distinguish it from the personal or general checking account of the licensee and be designated as a ~~trust~~ guardianship account. Each ~~trust~~ guardianship account must at all times account for all money received for the benefit of the ward and account for all money dispersed for the benefit of the ward, and no disbursement may be made from the account except ~~for court~~ as authorized expenditures, under chapter 159 of NRS or as authorized by court order.

2. Each licensee shall keep a record of all money deposited in each ~~trust~~ guardianship account maintained for a ward, which must clearly indicate the date and from whom the money was received, the date the money was deposited, the dates of withdrawals of money and other pertinent information concerning the transactions. Records kept pursuant to this subsection must be maintained for at least 6 years after the completion of the last transaction concerning the account. The records must be maintained at the premises in this State at which the licensee is authorized to conduct business.

3. The Commissioner or his or her designee ~~shall~~ may conduct an examination of the ~~trust~~ guardianship accounts and records relating to wards of each private professional guardian company licensed pursuant to this chapter at ~~least once each year,~~ any time to ensure compliance with the provisions of this chapter.

4. During the first year a private professional guardian is licensed in this State, the Commissioner or his or her designee may conduct any examinations deemed necessary to ensure compliance with the provisions of this chapter. ~~and chapter 159 of NRS.~~

5. If there is evidence that a private professional guardian company has violated a provision of this chapter, ~~for chapter 159 of NRS,~~ the Commissioner or his or her designee may conduct additional examinations to determine whether a violation has occurred.

6. Each licensee shall authorize the Commissioner or his or her designee to examine all books, records, papers and effects of the private professional guardian company.

7. If the Commissioner determines that the records of a licensee are not maintained in accordance with subsections 1 and 2, the Commissioner may require the licensee to submit, within 60 days, an audited financial statement prepared from the records of the licensee by a certified public accountant who holds a certificate to engage in the practice of public accounting in this State. The Commissioner may grant a reasonable extension of time for the submission of the financial statement if an extension is requested before the statement is due.

8. Upon the request of the Division, a licensee must provide to the Division copies of any documents reviewed during an examination conducted by the Commissioner or his or her designee pursuant to

subsection 4, 5 or 6. If the copies are not provided, the Commissioner may subpoena the documents.

9. For each examination of the books, papers, records and effects of a private professional guardian company that is required or authorized pursuant to this chapter, the Commissioner shall charge and collect from the private professional guardian company a fee for conducting the examination and preparing a report of the examination based upon the rate established by regulation pursuant to NRS 658.101. Failure to pay the fee within 30 days after receipt of the bill is grounds for revoking the license of the private professional guardian company.

10. All money collected under this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 38. 1. After an examination is conducted pursuant to section 37 of this act, the person who conducted the examination shall prepare a written report of the results of the examination which must be signed by the Commissioner or his or her designee.

2. The written report must contain a true and detailed statement of the financial condition of the private professional guardian company and, if applicable, a full statement of any violations of the provisions of this chapter ~~and chapter 159 of NRS.~~

Sec. 39. 1. The Commissioner shall provide a copy of a report prepared pursuant to section 38 of this act to the president or secretary of the board of directors of the private professional guardian company if the company is a corporation, or to a manager or owner of the private professional guardian company if the company is not a corporation, and may make a copy available to each member of the board of directors or each manager or owner, as applicable. If, in the judgment of the Commissioner, the report discloses any violation of the provisions of this chapter ~~for chapter 159 of NRS~~ committed by the private professional guardian company, or if it appears from the report that there are certain conditions existing which should be corrected by the private professional guardian company, the Commissioner may, in writing, call the matter to the attention of each member of the board of directors or each manager or owner, with instructions to correct the condition.

2. Upon the preparation of the report as provided in section 38 of this act, the Commissioner shall also serve a copy thereof to the court having jurisdiction of each ward of the private professional guardian company.

Sec. 40. 1. The Commissioner may require a licensee to submit an annual financial statement or an audited financial statement prepared by an independent certified public accountant licensed to do business in this State, dependent upon the size and complexity of the private professional guardian company.

2. If applicable, on or before the fourth Monday in January of each year, each licensee shall submit to the Commissioner the stock ledger of stockholders of the corporation required to be maintained pursuant to

paragraph (c) of subsection 1 of NRS 78.105 or the list of each member and manager required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241, verified by the president or a manager, as appropriate.

3. A list of each member and manager submitted pursuant to subsection 2 must include the percentage of each member's interest in the company, in addition to the requirements set forth in NRS 86.241.

4. If a licensee fails to submit the ledger or list required pursuant to this section within the prescribed period, the Commissioner may impose and collect a fee of not more than \$10 for each day the report is late.

5. The Commissioner shall adopt regulations establishing the amount of the fee that may be imposed pursuant to this section.

Sec. 41. Except as otherwise provided in NRS 239.0115, any application and personal or financial records submitted to the Division pursuant to the provisions of this chapter and any personal or financial records or other documents obtained by the Division pursuant to an examination conducted by the Commissioner or his or her designee or in response to a subpoena are confidential and may be disclosed only to:

1. The Division, any authorized employee or representative of the Division and any state or federal agency investigating the activities covered under the provisions of this chapter; and

2. Any person if the Commissioner, in his or her discretion, determines that the interests of the public that would be protected by disclosure outweigh the interest of any person in the confidential information not being disclosed.

Sec. 42. 1. The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any private professional guardian company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the private professional guardian company, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.

2. An officer, director, manager or employee of a private professional guardian company who is required to be removed from office pursuant to subsection 1 may appeal his or her removal by filing a written request for a hearing with the Commissioner within 10 days after the effective date of his or her removal. The Commissioner shall conduct the hearing after providing at least 5 days' written notice to the private professional guardian company and the officer, director, manager or employee who is appealing his or her removal from office. Within 5 days after the conclusion of the hearing, the Commissioner shall enter an order affirming or disaffirming the removal of the person from office. An order of the Commissioner entered pursuant to this subsection is final for the purposes of judicial review.

Sec. 43. 1. The Commissioner may take administrative action against a licensee, including, without limitation, revoking or suspending the license, or initiate proceedings as provided in section 46 of this act ~~to take possession~~

~~of the business and property of any private professional guardian company]~~
if the company:

- (a) *Has violated this chapter or any other state or federal laws applicable to the business of a private professional guardian.*
- (b) *Is conducting the business in an unauthorized or unsafe manner.*
- (c) *Is in an unsafe or unsound condition to transact business.*
- (d) *Has an impairment of the surety bonds held by the company.*
- (e) *Has an impairment of the fidelity bonds held by the company.*
- (f) *Has become insolvent.*
- (g) *Has neglected or refused to comply with the terms of a lawful order of the Commissioner.*
- (h) *Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.*
- (i) *Has refused to provide copies to the Division upon request, and in cooperation with any investigation, inspection or examination, of any and all documents reviewed by the Division during any such investigation, inspection or examination.*
- (j) *Has failed to pay any state or local taxes as required.*
- (k) *Has materially and willfully breached its fiduciary duties to a ward.*
- (l) *Has failed to properly disclose all fees, interest and other charges to the court and the public.*
- (m) *Has willfully engaged in material conflicts of interest regarding a ward.*
- (n) *Has made intentional material misrepresentations regarding any aspect of the services performed or proposed to be performed by the private professional guardian company.*

2. The Commissioner also may initiate such proceedings to take possession of the business and property of any private professional guardian company if an officer, partner, member or sole proprietor of the private professional guardian company refuses to be examined upon oath regarding its affairs.

Sec. 44. 1. If the Commissioner has reason to believe that grounds for the revocation or suspension of a license exist, the Commissioner shall give at least 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

2. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;

(b) The licensee has violated any provision of this chapter or any regulation adopted pursuant thereto or any lawful order of the Commissioner;

(c) The licensee has failed to pay any applicable state or local tax as required;

(d) Any fact or condition exists which would have justified the Commissioner in denying the original application for a license pursuant to the provisions of this chapter; or

(e) The licensee:

(1) Failed to open an office for the conduct of the business authorized by his or her license within 180 days after the date the license was issued; or

(2) Has failed to remain open for the conduct of the business for a period of 30 consecutive days without good cause therefor.

4. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

Sec. 45. If the Commissioner finds that probable cause for the revocation of any license exists and that the public interest requires the immediate suspension of the license pending an investigation, the Commissioner may, upon 5 days' written notice offering the opportunity for a hearing, enter an order suspending the license for a period of not more than 20 days, pending a hearing upon the revocation of the license unless the opportunity for a hearing is waived by the licensee.

Sec. 46. 1. If the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, the Commissioner may, in addition to any action provided for in this chapter and chapter 233B of NRS and without prejudice thereto, enter an order requiring the person to cease and desist or to refrain from such violation.

2. The Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, irreparable harm and lack of an adequate remedy at law will be presumed and an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper. The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the issuance ex parte of a temporary restraining order.

3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the person, including books, papers, documents and records pertaining thereto,

or so much thereof as a court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business, whether such books, papers, documents and records are in the possession of the person, a registered agent acting on behalf of the person or any other person. If a receiver is appointed and qualified, the receiver has such powers and duties relating to the custody, collection, administration, winding up and liquidation of such property and business as may be conferred upon the receiver by the court.

4. If a receiver is appointed pursuant to subsection 3, the receiver shall remit to the owners, members or shareholders of the private professional guardian company any amount of equity of the private professional guardian company remaining after the discharge of the liabilities and payment of the normal, prudent and reasonable expenses of the receivership.

Sec. 47. 1. Upon the filing with the Commissioner of a verified complaint against a private professional guardian company, the Commissioner shall investigate the alleged violation of the provisions of this chapter.

2. If the Commissioner determines that a complaint filed pursuant to subsection 1 warrants further action, the Commissioner shall send a copy of the complaint and notice of the date set for an informal hearing to the subject of the complaint and the Attorney General.

3. The Commissioner may require the private professional guardian company that is the subject of a complaint to file a verified answer to the complaint within 10 days after receipt of the complaint unless, for good cause shown, the Commissioner extends the time required for filing an answer for a period not to exceed 60 days.

4. If at the hearing the complaint is not explained to the satisfaction of the Commissioner, the Commissioner may take such action against the private professional guardian company as authorized by the provisions of this chapter.

Sec. 48. 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

2. The complaint or other documents filed by the Commissioner to initiate disciplinary action and all documents and information considered by the Commissioner when determining whether to impose discipline are public records.

Sec. 49. 1. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 per violation upon a person who violates any provision of this chapter or any regulation adopted pursuant thereto.

2. The maximum total fine that the Commissioner may impose on any person pursuant to this section with respect to the same or similar actions or

series of actions which constitute the violations must not exceed the greater of \$250,000 or 125 percent of the monetary value of all losses incurred by the private professional guardian company and its wards as the direct or indirect result of such violations.

Sec. 50. 1. *A licensee who knowingly or willfully neglects to perform any act or duty required by this chapter or other applicable law, or who knowingly or willfully fails to satisfy any material lawful requirement made by the Commissioner is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

2. *If no other punishment is otherwise provided by law, a person who violates any provision of this chapter is guilty of a gross misdemeanor.*

Sec. 50.5. **NRS 159.059 is hereby amended to read as follows:**

159.059 Except as otherwise provided in NRS 159.0595, any qualified person or entity that the court finds suitable may serve as a guardian. A person is not qualified to serve as a guardian who:

1. Is an incompetent.
2. Is a minor.
3. Has been convicted of a felony, unless the court determines that such conviction should not disqualify the person from serving as the guardian of the ward.
4. Has been suspended for misconduct or disbarred from:
 - (a) The practice of law;
 - (b) The practice of accounting; or
 - (c) Any other profession which:
 - (1) Involves or may involve the management or sale of money, investments, securities or real property; and
 - (2) Requires licensure in this State or any other state,
- ↪ during the period of the suspension or disbarment.
5. ~~Has~~ **Except as otherwise provided in subsection 5 of NRS 159.061, is** a nonresident of this State and:
 - (a) Has not associated as a coguardian, a resident of this State or a banking corporation whose principal place of business is in this State; and
 - (b) Is not a petitioner in the guardianship proceeding.
6. Has been judicially determined, by clear and convincing evidence, to have committed abuse, neglect or exploitation of a child, spouse, parent or other adult, unless the court finds that it is in the best interests of the ward to appoint the person as the guardian of the ward.

Sec. 51. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. A private professional guardian, if a person, must be qualified to serve as a guardian pursuant to NRS 159.059 and must be a ~~certified~~ guardian ~~or~~ **licensed pursuant to section 18 of this act.**

2. A private professional guardian, if an entity, must be qualified to serve as a guardian pursuant to NRS 159.059 and must have a ~~certified~~ guardian **licensed pursuant to section 18 of this act** involved in the day-to-day operation or management of the entity.

3. A private professional guardian ~~{shall, at his or her own cost and expense:~~

~~—(a) Undergo a background investigation which requires the submission of a complete set of his or her fingerprints to the Central Repository for Nevada Records of Criminal History and to the Federal Bureau of Investigation for their respective reports; and~~

~~—(b) Present the results of the background investigation to the court upon request.],~~ ***regardless of whether the private professional guardian is a person or an entity, must be licensed pursuant to section 18 of this act.***

4. As used in this section:

(a) “Certified guardian” means a person who is certified by the Center for Guardianship Certification or any successor organization.

(b) “Entity” includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

(c) “Person” means a natural person.

Sec. 51.5. NRS 159.061 is hereby amended to read as follows:

159.061 1. The parents of a minor, or either parent, if qualified and suitable, are preferred over all others for appointment as guardian for the minor. The appointment of a parent as a guardian of the person must not conflict with a valid order for custody of the minor. In determining whether the parents of a minor, or either parent, is qualified and suitable, the court shall consider, without limitation:

(a) Which parent has physical custody of the minor;

(b) The ability of the parents or parent to provide for the basic needs of the child, including, without limitation, food, shelter, clothing and medical care;

(c) Whether the parents or parent has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS; and

(d) Whether the parents or parent has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the exploitation of a child.

2. Subject to the preference set forth in subsection 1, the court shall appoint as guardian for an incompetent, a person of limited capacity or minor the qualified person who is most suitable and is willing to serve.

3. In determining who is most suitable, the court shall give consideration, among other factors, to:

(a) Any request for the appointment as guardian for an incompetent contained in a written instrument executed by the incompetent while competent.

(b) Any nomination of a guardian for an incompetent, minor or person of limited capacity contained in a will or other written instrument executed by a parent or spouse of the proposed ward.

(c) Any request for the appointment as guardian for a minor 14 years of age or older made by the minor.

(d) The relationship by blood, adoption or marriage of the proposed guardian to the proposed ward. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider relatives in the following order of preference:

- (1) Spouse.
- (2) Adult child.
- (3) Parent.
- (4) Adult sibling.
- (5) Grandparent or adult grandchild.
- (6) Uncle, aunt, adult niece or adult nephew.

(e) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.

(f) Any request for the appointment of any other interested person that the court deems appropriate.

4. If the court finds that there is no suitable person to appoint as guardian pursuant to subsection 3, the court may appoint as guardian:

(a) The public guardian of the county where the ward resides, if:

- (1) There is a public guardian in the county where the ward resides; and
- (2) The proposed ward qualifies for a public guardian pursuant to chapter 253 of NRS;

(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the ward will be served appropriately by the appointment of a private fiduciary; or

(c) A private professional guardian who meets the requirements of NRS 159.0595.

5. A relative who is a nonresident of this State, if he or she is willing to serve and otherwise qualified and suitable, is preferred for appointment as guardian over the appointment of a private professional guardian pursuant to subsection 4 and may be appointed if no other suitable person may be appointed pursuant to subsection 3.

Sec. 52. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,

228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and **sections 40 and 47 of this act and** unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may

be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 53. 1. This section and sections 2 to 19, inclusive, and 21 to 52, inclusive, of this act become effective:

(a) Upon passage and approval for the purposes of adopting any regulations and performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On January 1, 2016, for all other purposes.

2. Section 19 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
➤ are repealed by the Congress of the United States.

3. Section 20 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

4. Sections 20 and 21 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 328.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 447.

AN ACT relating to education; requiring the Superintendent of Public Instruction to select a hearing officer from a list ~~[provided]~~ **maintained** by the ~~[Hearings Division of the]~~ Department of ~~[Administration]~~ **Education** to administer certain hearings relating to pupils with disabilities; **requiring a local educational agency involved in a complaint to pay the cost of a hearing;** requiring the Department of Education to ~~[designate an employee to provide certain training to such hearing officers;]~~ **adopt regulations prescribing certain procedures relating to hearing officers; authorizing the appeal of the decision of a hearing officer to the Department;** requiring the Department ~~[of Education]~~ to post certain information relating to such hearings on its Internet website; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Federal law requires each state to provide a parent or guardian of a pupil with the opportunity to challenge at a due process hearing: (1) the pupil's identification as a pupil with a disability; (2) the pupil's identification as a pupil without a disability; or (3) the placement of such a pupil. (20 U.S.C. § 1415) **Section 2** of this bill requires the Superintendent of Public Instruction to select a person to serve as a hearing officer from a list ~~[provided to him or her by the Hearings Division of]~~ **maintained by** the Department of ~~[Administration]~~ **Education** for a due process hearing held pursuant to federal law. **The hearing officer must be selected on an impartial basis and, in**

certain large school districts, must have a place of business located within the school district. The local educational agency involved in the complaint must pay the cost of the hearing. Section 2 also requires ~~[- (1)]~~ the State Board of Education to ~~to adopt regulations prescribing~~ prescribe by regulation: (1) the procedures for requesting the recusal of a hearing officer; (2) the qualifications necessary to ~~be appointed as a hearing officer for such a hearing; (2)]~~ remain on the list of hearing officers maintained by the Department ~~of Education to designate an employee to provide certain required training for hearing officers who provide such hearings;~~ and (3) the procedures to compensate a hearing officer. Section 2 provides that the decision of a hearing officer may be appealed to the Department. Finally, section 2 requires the Department ~~of Education~~ to post certain information relating to due process hearings on its Internet website.

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

Section 1. NRS 387.1221 is hereby amended to read as follows:

387.1221 1. The basic support guarantee for any special education program unit maintained and operated during a period of less than 9 school months is in the same proportion to the amount established by law for that school year as the period during which the program unit actually was maintained and operated is to 9 school months.

2. Any unused allocations for special education program units may be reallocated to other school districts, charter schools or university schools for profoundly gifted pupils by the Superintendent of Public Instruction. In such a reallocation, first priority must be given to special education programs with statewide implications, and second priority must be given to special education programs maintained and operated within counties whose allocation is less than or equal to the amount provided by law. If there are more unused allocations than necessary to cover programs of first and second priority but not enough to cover all remaining special education programs eligible for payment from reallocations, then payment for the remaining programs must be prorated. If there are more unused allocations than necessary to cover programs of first priority but not enough to cover all programs of second priority, then payment for programs of second priority must be prorated. If unused allocations are not enough to cover all programs of first priority, then payment for programs of first priority must be prorated.

3. A school district, a charter school or a university school for profoundly gifted pupils may, after receiving the approval of the Superintendent of Public Instruction, contract with any person, state agency or legal entity to provide a special education program unit for pupils of the district pursuant to NRS 388.440 to 388.520, inclusive ~~[-]~~, **and section 2 of this act.**

4. A school district in a county whose population is less than 700,000, a charter school or a university school for profoundly gifted pupils that receives

an allocation for special education program units may use not more than 15 percent of its allocation to provide early intervening services.

Sec. 2. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Whenever~~ The Department shall maintain a list of hearing officers who meet the qualifications prescribed pursuant to 20 U.S.C. § 1415(f)(3)(A) to conduct a due process hearing ~~is held~~ pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., regarding the identification, evaluation, reevaluation, classification, educational placement or disciplinary action of or provision of a free appropriate public education to a pupil with a disability ~~, the Superintendent of Public Instruction shall request from the Hearings Division of the Department of Administration a list of available hearing officers who are qualified to conduct the hearing.~~

2. The Superintendent ~~or his or her designee~~ of Public Instruction shall select a person to serve as a hearing officer from the list ~~provided by the Hearings Division of~~ maintained by the Department ~~of Administration~~ pursuant to subsection 1. Hearing officers must be selected on a random, rotational or other impartial basis and, in a school district in which more than 50,000 pupils are enrolled, the place of business of the hearing officer must, to the extent practicable, be located in the school district.

3. ~~The Department of Administration~~ local educational agency involved in the complaint shall ~~provide~~ pay the cost of the hearing, including, without limitation, any compensation to which the hearing officer is entitled.

~~3.~~ 4. The State Board shall prescribe ~~the~~ by regulation:

(a) The procedures for ~~exercising challenges to~~ requesting the recusal of a hearing officer, ~~including, without limitation, the number of challenges that may be exercised and the time limits in which the challenges must be exercised.~~

~~4. The State Board shall adopt regulations prescribing the~~ on the basis of bias or a conflict of interest.

(b) The qualifications to ~~serve as a~~ remain on the list of hearing ~~officer~~ officers maintained pursuant to subsection 1. Such qualifications must include, without limitation, requiring that a hearing officer ~~is appointed pursuant to subsection 1.~~

~~(a) If the due process hearing is held in a county whose population is 100,000 or more, must reside in the county in which the hearing for which he or she has been selected to serve as a hearing officer occurs;~~

~~(b) If the due process hearing is held in a county whose population is less than 100,000, must be a resident of this State;~~

~~(c)~~ (1) Must ~~have completed~~ complete, within the first year that the name of the hearing officer appears on the list maintained by the Department pursuant to subsection 1, a minimum of 40 hours of training.

which must include, without limitation, 24 hours of training in laws relating to special education; and

~~4. (d) (2) Must complete annual training in laws relating to special education provided by the Department of Education or attend a national conference regarding laws relating to special education approved by the State Board.~~

~~5. The Department of Education shall designate an employee to provide the specialized training for hearing officers required pursuant to subsection 4.~~

4. The training must include, without limitation, training concerning laws relating to special education, the procedure for conducting a hearing and rendering and writing a decision.

(c) The procedures for compensating a hearing officer which must be established to avoid a conflict of interest for the hearing officer or the appearance of such a conflict.

~~6.~~ 5. The decision of a hearing officer may be appealed by any aggrieved party to the Department.

6. The Department of Education shall post information as prescribed by the State Board relating to due process hearings held pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., on its Internet website. Such information must include, without limitation:

(a) A model form that may be used to request such a hearing;

(b) Decisions from such hearings;

(c) Decisions from the appeals of such hearings; and

(d) Timelines and procedures for conducting such hearings.

7. As used in this section, "local educational agency" has the meaning ascribed to it in 20 U.S.C. § 1401(19).

Sec. 3. NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5317, inclusive ~~1~~ **and section 2 of this act:**

1. "Communication mode" means any system or method of communication used by a person who is deaf or whose hearing is impaired to facilitate communication which may include, without limitation:

(a) American Sign Language;

(b) English-based manual or sign systems;

(c) Oral and aural communication;

(d) Spoken and written English, including speech reading or lip reading; and

(e) Communication with assistive technology devices.

2. "Gifted and talented pupil" means a person under the age of 18 years who demonstrates such outstanding academic skills or aptitudes that the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

3. "Individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

4. “Individualized education program team” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

5. “Pupil who receives early intervening services” means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.

6. “Pupil with a disability” means a person under the age of 22 years who deviates either educationally, physically, socially or emotionally so markedly from normal patterns that the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

Sec. 4. This act becomes effective:

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

2. On July 1, 2016, for all other purposes.

Assemblywoman Woodbury moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 330.

Bill read second time.

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

Amendment No. 520.

SUMMARY—~~Provides requirements relating to the sale or lease of~~
Revises provisions relating to certain systems for the generation of electricity. (BDR 58-934)

AN ACT relating to energy; requiring a person who sells or installs certain systems for the generation of electricity **or sells electricity generated by such systems** to provide a warranty for each such system; requiring agreements for the financing, sale or lease of such systems **or the sale of electricity generated by such systems** to include or be accompanied by certain information, statements and disclosures; requiring sellers or lessors of such systems to maintain certain records; **requiring a person who sells or installs such systems or sells electricity generated by such systems to register with the Office of Energy; providing that certain actions constitute a deceptive trade practice;** and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

This bill provides requirements for agreements to sell, lease or install “distributed generation systems,” which are defined as electricity generating systems, other than certain portable or other electric generators intended for occasional use, that: (1) generate electricity from solar energy; (2) are located on the ~~property~~ **premises** of a customer of an electric utility; (3) are connected on the customer’s side of the electricity meter; (4) provide electricity primarily to offset customer load on ~~that property;~~ **those**

premises; and (5) ~~may~~ operate in parallel with the utility's transmission and distribution facilities.

Section 6 of this bill requires a person who sells, installs or sells and installs a distributed generation system to provide with the sale or installation an express, written warranty for the system which must provide coverage for both parts and labor. The seller or installer also must provide with the sale or installation a description of the warranty, a description of any responsibility assumed or disclaimed by the seller or installer, and performance data for the system. **Section 7** of this bill requires a person transferring an obligation under a required warranty to provide the name, address and telephone number of the person to whom the obligation is being transferred.

Section 8 of this bill lists the requirements for any agreement for the financing, sale or lease of a distributed generation system ~~or for the purchase of electricity generated by a distributed generation system.~~ The agreement, which must be in writing, must include information regarding: (1) the manufacturer, seller and installer of the system; (2) the effectiveness of the system; (3) the cost of the purchase or lease and the cost of operating and maintaining the system; (4) tax incentives and obligations relating to the purchase or lease of the system ~~or the purchase of electricity;~~ and (5) any restrictions or obligations imposed by the agreement. The seller or lessor of a system ~~or the seller of electricity~~ also must provide written statements regarding utility rates and attesting to the truthfulness and completeness of the agreement. **Section 8** also provides that any agreement that fails to comply with these requirements is voidable at the option of the person purchasing or leasing the system, **or purchasing electricity generated by the system,** until the installation of the system.

Section 9 of this bill provides requirements for an agreement for the financing, sale or lease of a distributed generation system that requires any modification or transfer of the system to be approved by a third party. **Section 10** of this bill provides requirements for an agreement that includes an estimate of the cost of electricity for the purchaser or lessee after the system is installed. **Section 11** of this bill requires a seller or lessor of a distributed generation system who represents to the purchaser or lessee that the purchaser or lessee will be entitled to certain tax credits to prepare and maintain a record of that representation.

Section 12 of this bill prohibits a person from selling, leasing or installing a distributed generation system or selling electricity generated by such a system without first registering with the Office of Energy. Section 12 also requires the Director of the Office of Energy to adopt regulations relating to registration.

Sections 6, 8 and 12 declare certain actions in violation of the provisions of this bill to constitute a deceptive trade practice for the purposes of chapter 598 of NRS.

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~11~~ 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to ~~11~~ 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Collector” means a component of a distributed generation system that is used to absorb solar radiation, convert the solar radiation to electricity and transfer the electricity to a storage unit.*

Sec. 4. 1. *“Distributed generation system” and “system” mean a system or facility for the generation of electricity that:*

- (a) Uses solar energy to generate electricity;*
- (b) Is located on the ~~property~~ premises of a customer of an electric utility;*
- (c) Is connected on the customer’s side of the electricity meter;*
- (d) Provides electricity primarily to offset customer load on ~~that property~~ those premises; and*
- (e) ~~May operate~~ Operates in parallel with the utility’s transmission and distribution facilities.*

2. *The term does not include a portable or other electric generator that is intended for occasional use.*

Sec. 5. *“Storage unit” means a component of a distributed generation system that is used to store electricity.*

Sec. 6. 1. *A person who sells a distributed generation system shall provide to the purchaser an express, written warranty for the system which:*

- (a) For the collectors and storage units of the system, expires not earlier than ~~2~~ 20 years after the sale of the system;*
- (b) For the inverters of the system, expires not earlier than 7 years after the sale of the system;*
- ~~(c) For all other components of the system, expires not earlier than ~~18~~ 24 months~~ 2 years after the sale of the system; and*
- ~~(c)~~ (d) Must provide coverage for both parts and labor.*

2. *A person who installs a distributed generation system shall provide to the person for whom the system is installed an express, written warranty for the installation of the system which:*

- (a) For the collectors and storage units of the system, expires not earlier than 2 years after the installation of the system is completed;*
- (b) For all other components of the system, expires not earlier than 1 year after the installation of the system is completed; and*
- (c) Must provide coverage for both parts and labor.*

3. *A person who sells, installs or sells and installs a distributed generation system shall provide with the system a written statement on a form prescribed by the Director. A copy of each statement must be provided*

to the Director, who shall make each such copy available for public inspection and copying. The statement must include:

(a) A description of the warranty required by the applicable provisions of this section for the system;

(b) A description of any responsibility assumed or disclaimed by the person providing the statement; and

(c) If the person providing the statement is the seller of the system, performance data, and the source of that data, for the system.

4. The provisions of this section relating to a person who installs a distributed generation system do not apply to a person who installs a system on his or her own ~~property~~ premises.

5. A violation of this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 7. If any obligation under a warranty required by section 6 of this act is transferred, the person transferring the obligation shall:

1. Provide to the purchaser or lessee of the distributed generation system the name, address and telephone number of the person to whom the obligation is being transferred; and

2. Disclose to the purchaser or lessee whether the person to whom the obligation is being transferred is certified by the North American Board of Certified Energy Practitioners or any successor organization.

Sec. 8. 1. An agreement for the financing, sale or lease of a distributed generation system, or an agreement for the purchase of electricity generated by a distributed generation system, must be in writing in at least ~~(10-point)~~ 12-point font and must:

(a) Be signed and dated by the purchaser or lessee of the system ~~for~~ or the purchaser of electricity.

(b) Include a provision granting the purchaser or lessee of the system or the purchaser of electricity the right to rescind the agreement for a period ending:

(1) Not less than 5 days after the agreement is signed; or

(2) When installation of the system begins,

↪ whichever is earlier.

(c) Include the name, mailing address and telephone number of the manufacturer, seller and installer of the system and, if the agreement is for the lease of the system, the name, mailing address and telephone number of the lessor of the system.

(d) Disclose whether the seller and installer of the system are certified by the North American Board of Certified Energy Practitioners or any successor organization.

(e) For each component of the system, include any serial number or other identifying number provided by the manufacturer of the component.

(f) Separately set forth:

(1) If the agreement is pursuant to a financing agreement:

(I) *The total cost to the purchaser or lessee over the duration of the agreement; and*

(II) *The total number of payments and the schedule of payments; and*

(2) *Any interest, fees for the installation of the system, fees for the preparation of any documents relating to the agreement and any other costs to be paid by the purchaser or lessee ~~of the system or the purchaser of electricity, as applicable.~~*

(g) *Include an estimate of the total cost of operating and maintaining the system for the period during which it can be reasonably expected that the system will be operational, including, without limitation, the cost of any construction necessary for the installation of the system.*

(h) *Include an estimate of the amount of electricity that will be generated by the system on a monthly and annual basis.*

(i) *Identify each state and federal tax incentive available for purchasing or leasing the system ~~or purchasing electricity generated by the system,~~ including, without limitation, the expiration date of any such tax incentive and any conditions or requirements for qualifying for any such tax incentive.*

(j) *Identify each tax obligation resulting from the purchase or lease of the system ~~or the purchase of electricity generated by the system,~~ including, without limitation:*

(1) *An estimate of the assessed value and the depreciation schedule of the system and the components of the system;*

(2) *Any sales, use or rental tax that may be assessed for the purchase or lease of the system ~~or the purchase of electricity generated by the system;~~ and*

(3) *Any obligation of the purchaser or lessee of the system or the purchaser of electricity generated by the system to transfer any tax incentive associated with the system.*

(k) *Disclose whether any obligations under a warranty required by section 6 of this act may be transferred.*

(l) *Disclose any restrictions which the agreement imposes on the modification or transfer of the system.*

(m) *Disclose any restrictions which the agreement imposes on the modification or transfer of the real property to which the system is affixed.*

(n) *Disclose any obligation the seller or lessor has regarding the installation or removal of the system.*

(o) *If the agreement is for the lease of a system, provide for the continuation, termination or transfer of the lease in the event of:*

(1) *The sale of the real property to which the system is affixed; or*

(2) *The death of the lessee.*

(p) *If the agreement is for the sale or lease of a system, include the declaration required by subsection ~~4.3~~ 4.*

(q) *If the agreement is for the purchase of electricity generated by the system, include:*

(1) *The duration of the agreement; and*

(2) The price per unit of electricity generated by the system and purchased by the purchaser, including, without limitation, any escalation factor affecting the price.

(r) Any other term or condition that a reasonable person would consider material to a decision to enter into an agreement for the financing, sale or lease of a system or the purchase of electricity generated by a system.

2. The seller or lessor of a distributed generation system shall provide to the purchaser or lessee , and the seller of electricity generated by a distributed generation system shall provide to the purchaser of such electricity, a written statement, separate from the agreement described in subsection 1, in substantially the following form:

Utility rates and utility rate structures are subject to change. These changes cannot be accurately predicted ~~for~~ and may apply to you in the future. The projected savings from your distributed generation system are therefore subject to change. Tax incentives and tax subsidies are subject to change or termination by executive, legislative or regulatory action.

3. If an agreement described in subsection 1 refers to the price of electricity provided by a public utility, the seller or lessor of the distributed generation system or the seller of electricity generated by the system shall provide to the purchaser or lessor a written statement, separate from the agreement described in subsection 1, in substantially the following form:

Utility rates and utility rate structures are subject to change. For additional information regarding utility rates and utility rate structures, you may contact your local public utility or the Public Utilities Commission of Nevada.

4. The seller or lessor of a distributed generation system and the seller of electricity generated by a distributed generation system shall sign and provide to the purchaser or lessee a written declaration in substantially the following form:

Under penalty of perjury, I declare that I have examined this agreement and that, to the best of my knowledge and belief, the information contained in the agreement is true, correct and complete.

~~{4}~~ 5. An agreement for the financing, sale or lease of a distributed generation system, or an agreement for the purchase of electricity generated by a distributed generation system, that does not comply with the requirements of subsection 1 or that is not accompanied by the statement required by subsection 2 is voidable at the option of the person buying or leasing the system or purchasing the electricity until the installation of the system begins.

6. A failure by the seller or lessor of a distributed generation system or the seller of electricity generated by a distributed generation system to include in an agreement for the financing, sale or lease of a distributed generation system or an agreement for the purchase of electricity generated by a distributed generation system any provision required by this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Sec. 9. 1. If an agreement for the financing, sale or lease of a distributed generation system requires that any modification or transfer of the system be approved by a third party, the agreement must:

(a) Include the name, address and telephone number of the third party; and

(b) Identify any modification for which approval is required.

2. If an agreement for the financing, sale or lease of a distributed generation system requires that any modification or transfer of the real property to which the system is affixed be approved by a third party, the agreement must:

(a) Include the name, address and telephone number of the third party; and

(b) Identify any modification for which approval is required.

Sec. 10. If an agreement for the financing, sale or lease of a distributed generation system includes an estimate of the cost of electricity for the purchaser or lessee after the installation of the system, the agreement must include an estimate of the cost of electricity for the purchaser or lessee after any changes in the rates paid by customers of the utility providing electricity to the purchaser or lessee. The estimate must consider a range of possible rate changes from a 5 percent annual decrease to a 5 percent annual increase from the rate paid at the time of the agreement.

Sec. 11. 1. If the seller or lessor of a distributed generation system represents to the purchaser or lessee of the system that the purchaser or lessee will be entitled to a tax credit pursuant to 26 U.S.C. § 25D, the seller or lessor shall:

(a) Provide a written record of the representation to the purchaser or lessee of the system; and

(b) Maintain a copy of the record for not less than 7 years after the date of the sale or lease of the system.

2. The seller or lessor shall provide a copy of the record required by subsection 1 on request to an agent of the United States Internal Revenue Service for inspection or copying.

Sec. 12. 1. A person shall not sell, lease or install a distributed generation system or sell electricity generated by a distributed generation system unless the person has registered with the Office of Energy by submitting to the Office a form prescribed by the Director.

2. The Director shall adopt regulations:

(a) Requiring a registration form submitted to the Office of Energy pursuant to subsection 1 to include:

(1) The name, street address, mailing address, electronic mail address and telephone number of the registrant;

(2) The name and contact information of any person designated by the registrant to receive notices and other communications from the Office of Energy;

(3) A statement indicating each activity described in subsection 1 in which the registrant intends to engage; and

(4) Any other information required by the Director;

(b) Requiring a registrant to submit to the Office of Energy:

(1) An example of the agreement described in section 8 of this act for each activity described in subsection 1 in which the registrant has indicated he or she intends to engage; and

(2) An updated example of the agreement described in section 8 of this act, if a previously submitted example is no longer reasonably accurate or if the registrant intends to engage in an activity described in subsection 1 for which the registrant has not yet submitted an example of an agreement;

(c) Requiring a registrant to submit to the Office of Energy an amended registration form if any information provided to the Office of Energy on a registration form or a previously submitted amended registration form is no longer correct; and

(d) Providing the time period within which an updated example described in subparagraph (2) of paragraph (b) or an amended registration form described in paragraph (c) must be submitted.

3. The sale, lease or installation of a distributed generation system or the sale of electricity generated by a distributed generation system without:

(a) Registering with the Office of Energy pursuant to this section;

(b) Submitting to the Office of Energy the examples of agreements required to be submitted pursuant to regulations adopted pursuant to paragraph (b) of subsection 2; or

(c) Submitting to the Office of Energy an amended registration form within the time period prescribed pursuant to regulations adopted pursuant to paragraph (d) of subsection 2,

↪ constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 332.

Bill read second time.

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

Amendment No. 492.

AN ACT relating to public works; prohibiting a public body from entering into certain contracts for public works which allow for purchase by the public body of the construction materials or goods to be used in the public work; providing that the Attorney General is to enforce the prohibition against such a contract for a public work; directing the Department of Taxation to withhold certain money payable to a public body which violates such a prohibition in a contract for a public work; ~~removing an exemption for~~ **revising provisions relating to** certain construction projects of the Nevada System of Higher Education; ~~from provisions governing public works;~~ providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the sale of any tangible personal property to a governmental entity including the State, its unincorporated agencies and instrumentalities or a county, city, district or other political subdivision of this State, is exempted from the imposition of sales and use taxes. (NRS 372.325, 372.345) A contractor who buys tangible personal property or stores, uses or otherwise consumes tangible personal property for such a governmental entity must pay such taxes unless the contractor is a constituent part of that entity. (NRS 372.340) **Section 1** of this bill prohibits any public body including the State, its local governments, school districts, and any public agency thereof which sponsors or finances a public work from entering into ~~for~~ **an express or implied** contract for a public work which provides that any construction materials or goods to be used on the public work be purchased or otherwise supplied by: (1) the public body; (2) a contractor who is a constituent part of the public body; or (3) a contractor who is not a constituent part of the public body acting on behalf of the public body. A public body may, however, enter into such a contract for a public work provided that the contract requires the payment of any state or local taxes that would otherwise have been due for the purchase and use of such construction materials or goods if they had been purchased and used by an entity not exempted from the payment of such taxes. **Section 1** also provides that: (1) ~~for~~ **an express or implied** contract entered into in violation of this prohibition is void; (2) a person who enters into such a contract is guilty of a gross misdemeanor; and (3) the right to enforce the provisions of this prohibition vests exclusively in the Attorney General. **Section 1** further provides that, if a contract is entered into in violation of this prohibition, the Attorney General must forward to the Department of Taxation a list of the construction materials or goods purchased under the contract. The Department is then required to calculate the amount of applicable state and local taxes that should have been collected on the construction materials or goods, and deduct from the money otherwise payable from the proceeds of any tax distribution due to the public body either twice the amount of the applicable taxes or the sum of ~~\$500,000,~~ **\$250,000**, whichever is greater. **In addition, section 1 exempts from the new prohibition express or implied contracts for public works that use certain construction materials or goods that are: (1) purchased pursuant to governmental procurement rules, needed on a**

recurring basis and used to protect the health, safety or welfare of the public; or (2) specialized, project-specific components.

Under existing law, the laws of this State pertaining to public works apply to any project which is financed in whole or in part from public money for the new construction, repair or reconstruction of publicly owned works and properties, except that such laws only apply to a building for the Nevada System of Higher Education if 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money. (NRS 338.010) **Section 2** of this bill removes that exemption from the application of public works laws for such a building for the System. **However, section 2.5 of this bill exempts a building of the System if less than 25 percent of the costs of the building are paid from money appropriated by this State or federal money from certain provisions requiring that a public body use the services of the State Public Works Division of the Department of Administration for certain services relating to planning, maintenance and construction of state buildings. (NRS 341.141-341.148)** **Section 4** of this bill repeals certain sections for conformity with the amendments made in **section 2**.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in ~~subsection 2,~~ this section, a public body shall not enter into ~~an~~ an express or implied contract for a public work which provides that any construction materials or goods to be used on the public work will be purchased or otherwise supplied by:

(a) The public body or a contractor who is a constituent part of the public body; or

(b) A contractor who is not a constituent part of the public body but is acting on behalf of the public body.

2. A public body may enter into ~~an~~ an express or implied contract for a public work which provides that any construction materials or goods to be used in the public work will be purchased or supplied by the public body, a contractor who is a constituent part of the public body or a contractor who is not a constituent part of the public body but is acting on behalf of the public body if:

(a) The contract requires the payment of any state or local taxes that would otherwise have been due for the purchase and use of the construction materials or goods if the construction materials or goods had been purchased and used by a contractor who was not a constituent part of the public body and who was not otherwise exempt from the taxes pursuant to state or local law; and

(b) The public body sends ~~a copy of the contract, including~~ an itemized list of the construction materials or goods to be purchased or otherwise

provided by the public body or a contractor who is a constituent part of the public body, to the Department of Taxation. The itemized list must include the amount paid for each item.

3. ~~4.~~ ~~A~~ An express or implied contract entered into in violation of subsection 1 is void.

4. A person who enters into ~~to~~ an express or implied contract that violates the provisions of subsection 1 is guilty of a gross misdemeanor.

5. The right to enforce the provisions of this section vests exclusively in the Attorney General, who ~~may~~ shall institute and prosecute the appropriate proceedings to enforce the provisions of this section.

6. If ~~to~~ an express or implied contract for a public work is entered into in violation of subsection 1, the Attorney General shall forward to the Department of Taxation a list of construction materials or goods purchased in violation of this section by the public body or the contractor who is a constituent part of the public body. The Department shall calculate the applicable state and local taxes on the purchase and use of the construction materials or goods which would have been due but for the tax exemption of the public body or the contractor who is a constituent part of the public body, and shall deduct that amount from the money otherwise payable from the proceeds of any tax distribution to the public body:

(a) Twice the amount of the applicable taxes; or

(b) The sum of ~~(\$500,000)~~ \$250,000,

↪ whichever is greater.

7. The provisions of this section do not apply to an express or implied contract for a public work for which the construction materials or goods purchased by the public body are:

(a) Devices, equipment or hardware purchased in compliance with chapter 332 or 333 of NRS which are needed on a recurring basis and used to protect the health, safety or welfare of the public, including, without limitation, official traffic control devices; or

(b) Specialized components which are specific to a particular project and are not commonly used in public works projects.

↪ If a public body enters into such a contract, the public body must provide annually to the Department of Taxation an itemized list of the construction materials or goods purchased pursuant to the contract and the amount paid for each item.

8. As used in this section, "construction materials or goods" means all materials, equipment or supplies which are intended to be used in a public work and includes, without limitation, the following, as well as related components or other materials intended for similar use:

(a) Structural or reinforcing steel.

(b) Aggregates, including, without limitation, base, barrow, concrete, asphalt, treated base, fill, topsoil and decorative aggregate.

(c) Interior finishing materials, including, without limitation, drywall, metal studs, acoustical ceiling material, paint, sealants, compounds and wall coverings.

(d) Flooring, including, without limitation, carpet, tile, wood, vinyl and laminates.

(e) Wood and wood products, including, without limitation, plywood, lumber, form systems, sheeting and decking.

(f) Utility materials, including, without limitation, piping, conduit, fiber optics, cables and cabling, power generators and pumps.

(g) Electrical materials, including, without limitation, conduit, wire, cables and cabling, electrical panels, lighting fixtures, outlets and switches.

(h) Plumbing materials, including, without limitation, pipes and piping, fixtures, drains, pumps, toilets, sinks, tubs and water heaters.

(i) Heating, ventilation and air conditioning materials, including, without limitation, ducts, vents, sheet metal, air conditioning units, furnaces and fans.

(j) Equipment and devices, whether purchased or rented, including, without limitation, heavy construction equipment, forklifts, scissor lifts, boom lifts, cranes and traffic control devices.

(k) Miscellaneous materials, including, without limitation, materials used for fencing, irrigation, masonry, cabinetry, doors, windows, traffic signals and signs, landscaping, roofing and elevators.

Sec. 2. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. “Authorized representative” means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. “Contract” means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. “Contractor” means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.

(b) A design-build team.

4. “Day labor” means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker or workers employed by them on public works by the day and not under a contract in writing.

5. “Design-build contract” means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. “Design-build team” means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. “Design professional” means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. “Division” means the State Public Works Division of the Department of Administration.

9. “Eligible bidder” means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

10. “General contractor” means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

11. “Governing body” means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

12. “Horizontal construction” means the construction of any fixed work, including any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.

13. “Local government” means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

14. “Offense” means failing to:

- (a) Pay the prevailing wage required pursuant to this chapter;
- (b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;
- (c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or
- (d) Comply with subsection 5 or 6 of NRS 338.070.

15. “Prime contractor” means a contractor who:

- (a) Contracts to construct an entire project;
- (b) Coordinates all work performed on the entire project;
- (c) Uses his or her own workforce to perform all or a part of the public work; and
- (d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

↪ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

16. “Public body” means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

17. “Public work” means any project for the new construction, repair or reconstruction of ~~the~~

~~—(a) A~~ a project financed in whole or in part from public money for:

- ~~{{(1)}} (a)~~ (a) Public buildings;
- ~~{{(2)}} (b)~~ (b) Jails and prisons;
- ~~{{(3)}} (c)~~ (c) Public roads;
- ~~{{(4)}} (d)~~ (d) Public highways;
- ~~{{(5)}} (e)~~ (e) Public streets and alleys;
- ~~{{(6)}} (f)~~ (f) Public utilities;
- ~~{{(7)}} (g)~~ (g) Publicly owned water mains and sewers;
- ~~{{(8)}} (h)~~ (h) Public parks and playgrounds;
- ~~{{(9)}} (i)~~ (i) Public convention facilities which are financed at least in part with public money; and
- ~~{{(10)}} (j)~~ (j) All other publicly owned works and property.

~~[(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.]~~

18. “Specialty contractor” means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

19. “Stand-alone underground utility project” means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

↪ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

20. “Subcontract” means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

↪ for the provision of labor, materials, equipment or supplies for a construction project.

21. “Subcontractor” means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

22. “Supplier” means a person who provides materials, equipment or supplies for a construction project.

23. “Vertical construction” means the construction or remodeling of any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any improvement appurtenant thereto.

24. “Wages” means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.

25. “Worker” means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 2.5. Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of NRS 341.141 to 341.148, inclusive, apply to a contract for the construction of a building for the Nevada System of Higher Education only if 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

Sec. 2.7. NRS 341.141 is hereby amended to read as follows:

341.141 1. The Division shall furnish engineering and architectural services to the Nevada System of Higher Education and all other state departments, boards or commissions charged with the construction of any building constructed on state property or for which the money is appropriated by the Legislature, except:

(a) Buildings used in maintaining highways;
 (b) Improvements, other than nonresidential buildings with more than 1,000 square feet in floor area, made:

(1) In state parks by the State Department of Conservation and Natural Resources; or

(2) By the Department of Wildlife; ~~and~~

(c) **Buildings of the Nevada System of Higher Education:**

(1) That are exempted pursuant to section 2.5 of this act; or

(2) To which section 2.5 of this act applies if the Administrator has delegated his or her authority in accordance with NRS 341.119; and

(d) Buildings on property controlled by other state agencies if the Administrator has delegated his or her authority in accordance with NRS 341.119.

↪ The Board of Regents of the University of Nevada and all other state departments, boards or commissions shall use those services.

2. The services must consist of:

(a) Preliminary planning;
 (b) Designing;
 (c) Estimating of costs; and
 (d) Preparation of detailed plans and specifications.

Sec. 3. NRS 338.018 and 338.075 are hereby repealed.

Sec. 4. This act becomes effective on July 1, 2015.

TEXT OF REPEALED SECTIONS

338.018 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

338.075 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000

even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

Assemblyman Ellison moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 336.

Bill read second time.

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

Amendment No. 523.

AN ACT relating to human trafficking; **requiring the Secretary of State to develop a model sign relating to the National Human Trafficking Resource Center Hotline; authorizing certain businesses to post the sign in certain areas;** requiring ~~certain businesses and other establishments~~ **certain sexually oriented businesses** to post ~~an informational~~ **the** sign ~~relating to the National Human Trafficking Resource Center Hotline;~~ **in certain areas of the business;** providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires ~~certain businesses and other establishments to post a sign regarding the National Human Trafficking Resource Center Hotline. This bill further requires the Department of Transportation and the Department of Business and Industry;~~ **the Secretary of State** to develop a model sign regarding the National Human Trafficking Resource Center Hotline, **and requires the Secretary of State and the Department of Business and Industry** to include the model sign on their **respective** Internet websites. ~~A business or other establishment;~~ **Under this bill, certain establishments are authorized to post the sign in each women's restroom on the premises of the establishment. In addition, a taxicab or limousine operator may place the sign in the back passenger compartment of his or her taxicab or limousine. However, this bill requires a sexually oriented business to post the sign inside each women's restroom on the premises of the business. Additionally, under this bill, a sexually oriented business** that fails to post ~~such a~~ **the** sign: (1) for a first violation, must be given a warning by the Attorney General or the district attorney of the county in which the business or establishment is located and ~~24 hours~~ **30 days** to correct the violation; and (2) for each subsequent violation, is subject to a ~~\$500~~ **\$250** civil penalty for each ~~24-hour~~ **30-day** period during which the business ~~for establishment~~ fails to post the sign.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Each of the following businesses and other establishments shall,~~ may, upon the availability of the model sign developed pursuant to subsection 5, post a sign that complies with the requirements of this section ~~in a conspicuous location near the public entrance of the business or establishment or in another conspicuous location in clear view of the public and employees where similar signs are customarily posted,~~ inside each women's restroom on the premises of the business or other establishment:

~~(a) An establishment found to maintain or permit a public nuisance relating to prostitution;~~

~~(b)~~ A mass transit facility, including, without limitation, an airport, bus station or train station;

~~(c)~~ (b) A rest area or truck stop;

~~(d)~~ (c) A massage ~~parlor~~ establishment or public spa;

~~(e)~~ (d) An establishment licensed to sell alcoholic beverages by the drink for consumption on the premises;

~~(f) A sexually oriented business;~~

~~(g)~~ (e) A fast food restaurant;

~~(h)~~ (f) A hospital ~~for an~~ independent center for emergency medical care ~~is~~

~~(i)~~ or any provider of health care or medical facility that primarily serves women;

(g) A public high school; and

~~(j)~~ (h) An employment agency or employment office.

2. A taxicab motor carrier or an operator of a limousine may, upon the availability of the model sign developed pursuant to subsection 5, post a sign that complies with the requirements of this section in the back passenger compartment of his or her taxi or limousine, as applicable.

3. A sexually oriented business shall, upon the availability of the model sign developed pursuant to subsection 5, post a sign that complies with the requirements of this section inside each women's restroom on the premises of the business.

4. The sign ~~to be posted~~ developed pursuant to subsection ~~4~~ must be at least 8 1/2 by 11 inches in size and 5 must contain a notice that is clearly legible, written in English, Spanish and any other language deemed appropriate by the Director of the Department of Business and Industry, and in substantially the following form:

~~If you or someone you know is~~ Are you or a friend being forced ~~to engage in any activity and cannot leave — whether it is commercial~~ into sex, housework, farm ~~or to work for any other activity call~~ against your will? Call the National Human Trafficking Resource Center Hotline at (888) 373-7888 ~~to access~~ for help and services.

~~/• Victims of human trafficking are protected under the laws of the State of Nevada and the United States.~~

~~• The Hotline is:~~

~~• Available 24 hours a day, 7 days a week.~~

~~• Toll-free.~~

~~• Operated by a nonprofit, nongovernmental organization.~~

~~• Anonymous and confidential.~~

~~• Accessible in 170 languages.~~

~~• Able to provide help, referrals to services, training and general information.~~

~~{3} 5. The {Department of Transportation and the Department of Business and Industry} Secretary of State shall develop a model sign as described in subsection {2 and include the sign,} 4 in English, Spanish and any other language deemed appropriate by the Director of the Department of Business and Industry. {,} The Secretary of State and the Department of Business and Industry shall maintain the model sign on the Internet websites maintained by {those Departments.~~

~~4. Upon request from a business or other establishment listed in subsection 1, the Department of Transportation or the Department of Business and Industry shall send, by first class mail to the business or other establishment, a copy of the model sign developed pursuant to subsection 2 in English, Spanish and any other language deemed appropriate by the Director of the Department of Business and Industry.~~

~~5. The Department of Transportation and the Department of Business and Industry} the Secretary of State and the Department, as applicable, in a format able to be downloaded by an individual business or establishment.~~

~~6. The Secretary of State shall notify each sexually oriented business of the requirement to post the model sign pursuant to subsection 3.~~

~~7. The Secretary of State may solicit and accept donations of signs that satisfy the requirements of this section from a nonprofit organization or any other source.~~

~~{6} 8. A sexually oriented business ~~for other establishment~~ that violates this section:~~

~~(a) For the first violation, must be given a warning by the Attorney General or the district attorney of the county in which the business ~~for establishment~~ is located and {24 hours} 30 days to comply with the provisions of this section.~~

~~(b) For the second and any subsequent violation, is subject to a civil penalty of not more than {500} \$250. The Attorney General or the district attorney of the county in which the business ~~for establishment~~ is located may recover the civil penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.~~

↪ Each ~~{24-hour}~~ 30-day period during which the business ~~for establishment~~ is not in compliance with the provisions of this section constitutes a separate violation.

~~{7-}~~ 9. As used in this section:

- (a) "Employment agency" has the meaning ascribed to it in NRS 611.020.
- (b) "Employment office" has the meaning ascribed to it in NRS 612.155.
- (c) "Hospital" has the meaning ascribed to it in NRS 449.012.
- (d) "Independent center for emergency medical care" has the meaning ascribed to it in NRS 449.013.

(e) "Sexual conduct" has the meaning ascribed to it in NRS 201.520.

(f) "Sexually oriented business" ~~{means}~~ :

(1) Means a business that:

~~{(1)}~~ (I) Offers a service intending to provide sexual stimulation or sexual gratification to its patrons, including, without limitation, an escort service, house of prostitution or bath house;

~~{(2)}~~ (II) Engages in its principal business by use of an employee or independent contractor who appears in the nude or who exposes his or her genitals or the female breast; or

~~{(3)}~~ (III) Represents or implies that sexual conduct takes place at the business location.

(2) Does not include a business operating under a nonrestricted license for gaming issued pursuant to NRS 463.170.

(g) "Taxicab motor carrier" has the meaning ascribed to it in NRS 706.126.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 341.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 446.

SUMMARY—~~{Mandates enhanced screening and intervention for children with certain}~~ Revises provisions relating to pupils with disabilities.
(BDR 34-832)

~~{CONTAINS UNFUNDED MANDATE (§§ 10, 12-13)}~~

~~{(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)}~~

AN ACT relating to education; ~~{requiring reports of accountability to include the results of early literacy screening assessments;}~~ requiring each school district and certain charter ~~{school}~~ schools to administer ~~{such}~~ an early literacy screening assessment to certain pupils ; ~~{and provide notice regarding the results of the assessment;}~~ authorizing certain persons to perform additional testing for dyslexia; requiring a school district and a charter school to ~~{provide}~~ address the needs of a pupil who has indicators for dyslexia ~~{therapy and}~~ through the ~~{accommodations or modifications required by}~~

~~federal law]~~ **response to scientific, research-based intervention system of instruction; requiring the individualized education program team of a** pupil with dyslexia ~~to consider certain instructional approaches;~~ requiring **the Department of Education, each school district and certain charter schools to** ~~employ certain professionals with training in]~~ **designate at least one employee to receive professional development regarding dyslexia;** ~~requiring each school district to provide professional development regarding dyslexia;~~ requiring the Department ~~of Education]~~ to prepare and publish a Dyslexia Resource Guide; requiring certain standards relating to the education of pupils with disabilities to include provisions concerning dyslexia; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires the board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school to prepare an annual report of accountability that contains certain information. (NRS 385.347) Section 2 of this bill requires that this report include the results of an early literacy screening assessment.~~

~~Existing law requires the State Board of Education to prepare an annual report of accountability that contains certain information. (NRS 385.3572) Section 3 of this bill requires this annual report to include the results of the early literacy screening assessment.]~~

Section 8 of this bill requires the board of trustees of each school district and the governing body of each charter school **that serves pupils in kindergarten or grade 1, 2 or 3** to prescribe an early literacy screening assessment for use by the schools located in the school district or the charter school, respectively. **Section 9** of this bill: (1) requires each school district and charter school to administer screenings for dyslexia to **certain** pupils in certain grade levels; **and** (2) ~~requires a school district and charter school to consider an independent evaluation performed at the request of a parent or guardian;~~ **and** (3) ~~requires a school district and charter school to provide dyslexia therapy and]~~ **address the** ~~accommodations or modifications required by federal law to]~~ **needs of a pupil [with]** **if the screening confirms that a pupil has indicators for** dyslexia ~~to]~~

~~Section 10 of this bill requires each school district and charter school to provide notice to the parent or guardian of a pupil for whom the school district or charter school performs a comprehensive dyslexia evaluation.]~~ **through the response to scientific, research-based intervention system of instruction.**

Section 11 of this bill requires ~~the dyslexia therapy provided by a school district or charter school]~~ **a pupil's individualized education program team to** ~~include]~~ **consider** certain instructional approaches, ~~when developing an individualized education program for a pupil with dyslexia.~~

Section ~~12]~~ **13** of this bill requires the Department ~~of Education]~~ to designate ~~a full-time]~~ **at least one** employee **of the Department** to ~~serve as a]~~ **receive training in effective methods for intervention for pupils with**

dyslexia ~~specialist. Existing law creates regional training programs and requires each regional training program to operate a program for the professional development of teachers and administrators. (NRS 391.512)~~

~~Section 12~~ **Section 13** also requires ~~the Department to ensure that each regional training program employs at least one dyslexia specialist to provide necessary information and support to the school districts and charter schools in the counties that are served by the regional training program. Section 12 also requires each school district to employ at least one dyslexia interventionist.~~

~~Section 13 of this bill requires~~ each school district and charter school to ~~provide~~ **ensure that at least one employee who serves pupils in kindergarten or grade 1, 2 or 3 is designated at each school to receive professional development regarding dyslexia.** ~~for teachers and other educational personnel.~~

Section 14 of this bill requires the Department to prepare and publish a Dyslexia Resource Guide as a guide for each school district and public school to use ~~in order~~ to identify and provide dyslexia ~~therapy~~ **intervention** for pupils with dyslexia.

Existing law requires the State Board of Education to prescribe minimum standards for the special education of pupils with disabilities. (NRS 388.520) **Section 16** of this bill requires that the standards prescribed by the State Board for pupils with dyslexia include certain instruction.

Existing law requires the State Board to prescribe by regulation the standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or perform other educational functions. (NRS 388.520) **Section 17** of this bill requires these regulations to include training on how to identify a pupil who is at risk for dyslexia or related disorders.

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

Section 1. ~~Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.~~ **(Deleted by amendment.)**

Sec. 2. ~~1. The annual report of accountability prepared pursuant to NRS 385.347 must include for each school in the district and the district as a whole the results of the early literacy screening assessment administered pursuant to section 9 of this act.~~

~~2. The State Board may adopt any regulations necessary to carry out the provisions of this section.~~ **(Deleted by amendment.)**

Sec. 3. ~~The annual report of accountability prepared by the State Board pursuant to NRS 385.3572 must include the results of the early literacy screening assessment administered pursuant to section 9 of this act, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.~~ **(Deleted by amendment.)**

Sec. 4. ~~NRS 385.3455 is hereby amended to read as follows:~~

~~385.3455 As used in NRS 385.3455 to 385.3891, inclusive, **and section 2 of this act**, unless the context otherwise requires, the words and terms defined in NRS 385.346 to 385.34675, inclusive, have the meanings ascribed to them in those sections.} (Deleted by amendment.)~~

~~Sec. 5. [NRS 385.3468 is hereby amended to read as follows:~~

~~385.3468 The provisions of NRS 385.3455 to 385.3891, inclusive, **and section 2 of this act** do not supersede, negate or otherwise limit the effect or application of the provisions of chapters 288 and 391 of NRS or the rights, remedies and procedures afforded to employees of a school district under the terms of collective bargaining agreements, memoranda of understanding or other such agreements between employees and their employers.} (Deleted by amendment.)~~

~~Sec. 6. [NRS 385.3572 is hereby amended to read as follows:~~

~~385.3572 1. The State Board shall prepare a single annual report of accountability that includes, without limitation the information prescribed by NRS 385.3572 to 385.3592, inclusive [.] **and section 3 of this act.**~~

~~2. A separate reporting for a group of pupils must not be made pursuant to this section and NRS 385.3572 to 385.3592, inclusive, **and section 3 of this act** if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The Department shall use the mechanism approved by the United States Department of Education for the statewide system of accountability for public schools for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.~~

~~3. The annual report of accountability must:~~

~~(a) Be prepared in a concise manner; and~~

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

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

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

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

~~(1) Governor;~~

~~(2) Committee;~~

~~(3) Bureau;~~

~~(4) Board of Regents of the University of Nevada;~~

~~(5) Board of trustees of each school district;~~

~~(6) Governing body of each charter school; and~~

~~(7) The Attorney General, with a specific reference to the information that is reported pursuant to paragraph (c) of subsection 1 of NRS 385.3584.~~

~~5. Upon the request of the Governor, the Attorney General, an entity described in paragraph (b) of subsection 4 or a member of the general public,~~

~~the State Board shall provide a portion or portions of the annual report of accountability.~~ **(Deleted by amendment.)**

Sec. 7. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 14, inclusive, of this act.

Sec. 8. 1. *Except as otherwise provided in subsection 2, the board of trustees of each school district shall prescribe for use by the elementary schools located in the school district an early literacy screening assessment that meets the requirements set forth in subsection 3.*

2. *The governing body of each charter school that serves pupils in kindergarten or grade 1, 2 or 3 shall prescribe an early literacy screening assessment for use by the charter school that meets the requirements set forth in subsection 3.*

3. *The early literacy screening assessment prescribed pursuant to subsection 1 or 2 must include, without limitation, screening for:*

- (a) Phonological and phonemic awareness;*
- (b) Sound-symbol recognition;*
- (c) Alphabet knowledge;*
- (d) Decoding skills;*
- (e) Rapid naming skills; and*
- (f) Encoding skills.*

Sec. 9. 1. *The board of trustees of a school district or the governing body of a charter school, as applicable, shall administer the early literacy screening assessment prescribed pursuant to section 8 of this act to ~~determine whether at~~ each pupil ~~has~~ enrolled in kindergarten or grade 1, 2 or 3 who:*

- (a) Has indicators for dyslexia ~~and needs~~; and*
- (b) Needs intervention. ~~The early literacy screening assessment must be administered to every pupil enrolled in:~~*
 - ~~(a) Kindergarten and grades 1 and 2 at the beginning of each school year;~~
 - ~~(b) Kindergarten and grades 1 and 2 who:~~
 - ~~(1) Transfers to a school in this State from a school outside of this State; and~~
 - ~~(2) Has not presented documentation that he or she has taken the early literacy screening assessment prescribed pursuant to section 8 of this act or a similar screening or is exempt from early literacy screening; and~~
 - ~~(c) Grade 3 or higher when his or her regular classroom teacher determines that he or she has difficulty with:~~
 - ~~(1) Phonological and phonemic awareness;~~
 - ~~(2) Sound-symbol recognition;~~
 - ~~(3) Alphabet knowledge;~~
 - ~~(4) Decoding skills;~~
 - ~~(5) Rapid naming skills; and~~
 - ~~(6) Encoding skills.~~

2. *If an early literacy screening assessment administered pursuant to subsection 1 ~~suggests~~ confirms that a pupil has indicators for dyslexia, the*

board of trustees of a school district or governing body of a charter school, as applicable, shall ~~fr~~

~~— (a) Provide notice to the parent or guardian of the pupil that includes, without limitation, the results of the early literacy screening assessment; and~~

~~— (b) Address~~ address the needs of the pupil through the ~~{Response to Intervention}~~ response to scientific, research-based intervention system of instruction.

3. If the ~~{Response to Intervention}~~ response to scientific, research-based intervention system of instruction determines that a pupil needs additional screening in order to determine whether the pupil has a specific learning disability, including, without limitation, dyslexia:

(a) The pupil must receive additional testing by a trained professional using a norm-referenced test; and

(b) The board of trustees of the school district or the governing body of the charter school, as applicable, shall perform a comprehensive ~~{dyslexia}~~ evaluation for the pupil in addition to the required ~~{Response to Intervention}~~ response to scientific, research-based intervention system of instruction. ~~fr and~~

~~— (c) The parent or guardian of the pupil may, at his or her own expense, have an independent evaluation performed for the pupil. The board of trustees of the school district or the governing body of the charter school, as applicable, shall consider the diagnosis from the independent evaluation and may address the needs of the pupil in any way that it determines necessary.~~

~~— 4. If an evaluation conducted pursuant to paragraph (a) or (b) of subsection 3 indicates that a pupil has dyslexia, the board of trustees of the school district or the governing body of the charter school, as applicable, shall provide:~~

~~— (a) Dyslexia therapy to the pupil; and~~

~~— (b) The necessary accommodations and modifications for the pupil pursuant to section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 et seq.~~

~~— 5. The State Board may adopt regulations necessary to carry out the provisions of this section.~~

Sec. 10. ~~{1. The board of trustees of a school district or the governing body of the charter school, as applicable, shall provide notice to the parent or guardian of a pupil for whom an evaluation is conducted pursuant to paragraph (b) of subsection 3 of section 9 of this act.~~

~~— 2. The notification provided to a parent or guardian of a pupil pursuant to subsection 1 must include, without limitation:~~

~~— (a) The results of the dyslexia evaluation;~~

~~— (b) Information and resource material regarding dyslexia, including, without limitation:~~

~~— (1) The common indicators of dyslexia; and~~

~~(2) Appropriate classroom interventions and accommodations for a pupil with dyslexia; and~~

~~(c) Notice that the parent or guardian of the pupil may have the pupil independently evaluated at his or her own expense. (Deleted by amendment.)~~

Sec. 11. ~~{The}~~ When developing an individualized education program for a pupil with dyslexia {therapy provided by a school district or charter school must include,} in accordance with NRS 388.520, the pupil's individualized education program team shall consider, without limitation, the following instructional approaches:

1. Explicit, direct instruction that is systematic, sequential and cumulative and follows a logical plan of presenting the alphabetic principle that targets the specific needs of the ~~{pupil without presuming prior skills or knowledge of the}~~ pupil;

2. Individualized instruction to meet the specific needs of the pupil in ~~{a small group}~~ an appropriate setting that uses intensive, highly-concentrated instruction methods and materials that maximize pupil engagement;

3. Meaning-based instruction directed at purposeful reading and writing, with an emphasis on comprehension and composition; and

4. Multisensory instruction that incorporates the simultaneous use of two or more sensory pathways during teacher presentations and pupil practice.

Sec. 12. ~~{1. The Department shall designate a full-time employee to serve as a dyslexia specialist.~~

~~2. The dyslexia specialist designated by the Department pursuant to subsection 1 shall:~~

~~(a) Have a minimum of 3 years of experience in screening, identifying and treating dyslexia and related disorders;~~

~~(b) Be responsible for the training and professional development of teachers and other educational personnel regarding dyslexia and related disorders; and~~

~~(c) Serve as the primary source of information and support for school districts and charter schools addressing the needs of pupils with dyslexia or related disorders.~~

~~3. The Department shall ensure that each regional training program for the professional development of teachers and administrators created by NRS 391.512 employs at least one dyslexia specialist to provide necessary information and support to the school districts and charter schools that are served by the regional training program.~~

~~4. The board of trustees of each school district shall employ at least one dyslexia interventionist. (Deleted by amendment.)~~

Sec. 13. 1. The Department shall designate at least one employee of the Department to receive training in effective methods of intervention for pupils with dyslexia.

2. The board of trustees of each school district and the governing body of each charter school shall ~~provide~~ ensure that at least one employee who serves pupils in kindergarten or grade 1, 2 or 3 is designated at each school to receive professional development regarding dyslexia. ~~for teachers and other educational personnel.~~ Such professional development must include, without limitation, training in:

(a) Methods to recognize indicators for dyslexia; and

(b) The science related to teaching a pupil with dyslexia.

~~2. 3. The professional development ~~provided~~ required pursuant to subsection 1:~~

~~(a) Must include, without limitation, instruction on the indicators for dyslexia and the science related to teaching a pupil who has dyslexia; and~~

~~(b) May 2 may be provided on the Internet, by a regional training program for the professional development of teachers and administrators created by NRS 391.512 or at another venue approved by the Department.~~

Sec. 14. The Department shall prepare and publish a Dyslexia Resource Guide as a guide for each school district and public school, including, without limitation, a charter school, to use to identify and provide dyslexia ~~therapy~~ intervention for pupils with dyslexia.

Sec. 15. NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5317, inclusive ~~1~~, and sections 8 to 14, inclusive, of this act:

1. “Communication mode” means any system or method of communication used by a person who is deaf or whose hearing is impaired to facilitate communication which may include, without limitation:

(a) American Sign Language;

(b) English-based manual or sign systems;

(c) Oral and aural communication;

(d) Spoken and written English, including speech reading or lip reading; and

(e) Communication with assistive technology devices.

2. “Dyslexia” means a neurological learning disability characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language.

3. ~~“Dyslexia interventionist” means a person employed by a school district or public school who is trained to provide dyslexia therapy and includes, without limitation:~~

~~(a) A licensed teacher;~~

~~(b) A paraprofessional as defined in NRS 391.008; and~~

~~(c) Other educational personnel.~~

~~4. “Dyslexia ~~therapy~~ intervention” means systematic, multisensory ~~therapy~~ intervention offered in ~~a small group~~ an appropriate setting that is derived from evidence-based research. ~~It is provided by a dyslexia interventionist and meeting the requirements of section 11 of this act.~~~~

~~5.7~~ 4. “Gifted and talented pupil” means a person under the age of 18 years who demonstrates such outstanding academic skills or aptitudes that the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

~~3.67~~ 5. “Individualized education program” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

~~4.77~~ 6. “Individualized education program team” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

~~5.87~~ 7. “Pupil who receives early intervening services” means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.

~~6.97~~ 8. “Pupil with a disability” means a person under the age of 22 years who deviates either educationally, physically, socially or emotionally so markedly from normal patterns that the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

~~10.7~~ 9. ~~“Response to Intervention system of instruction”~~ “Response to scientific, research-based intervention” means a ~~system of instruction~~ collaborative process which assesses a pupil’s response to scientific, research-based intervention that ~~provides for~~ is matched to the needs of a pupil ~~early identification~~ and ~~support~~ that systematically monitors the level of performance and rate of learning of ~~for~~ the pupil ~~with a disability through~~ over time for the ~~use~~ purpose of ~~universal screening in a general education classroom~~, making data-based decisions concerning the need of the pupil for increasingly intensified services.

10. “Specific learning disability” means a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language which is not primarily the result of a visual, hearing or motor impairment, intellectual disability, serious emotional disturbance, or an environmental, cultural or economic disadvantage. Such a disorder may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or perform mathematical calculations. The term includes, without limitation, perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.

Sec. 16. NRS 388.520 is hereby amended to read as follows:

388.520 1. The Department shall:

(a) Prescribe a form that contains the basic information necessary for the uniform development, review and revision of an individualized education program for a pupil with a disability in accordance with 20 U.S.C. § 1414(d); and

(b) Make the form available on a computer disc for use by school districts and, upon request, in any other manner deemed reasonable by the Department.

2. Except as otherwise provided in this subsection, each school district shall ensure that the form prescribed by the Department is used for the

development, review and revision of an individualized education program for each pupil with a disability who receives special education in the school district. A school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

3. The State Board:

(a) Shall prescribe minimum standards for the special education of pupils with disabilities and gifted and talented pupils.

(b) May prescribe minimum standards for the provision of early intervening services.

4. The minimum standards prescribed by the State Board must include standards for programs of instruction or special services maintained for the purpose of serving pupils with:

(a) Hearing impairments, including, but not limited to, deafness.

(b) Visual impairments, including, but not limited to, blindness.

(c) Orthopedic impairments.

(d) Speech and language impairments.

(e) Intellectual disabilities.

(f) Multiple impairments.

(g) Serious emotional disturbances.

(h) Other health impairments.

(i) Specific learning disabilities ~~including, without limitation, dyslexia and related disorders.~~

(j) Autism spectrum disorders.

(k) Traumatic brain injuries.

(l) Developmental delays.

(m) Gifted and talented abilities.

5. The minimum standards prescribed by the State Board for pupils with hearing impairments, including, without limitation, deafness, pursuant to paragraph (a) of subsection 4 must provide:

(a) That a pupil cannot be denied the opportunity for instruction in a particular communication mode solely because the communication mode originally chosen for the pupil is different from a communication mode recommended by the pupil's individualized education program team; and

(b) That, to the extent feasible, as determined by the board of trustees of the school district, a school is required to provide instruction to those pupils in more than one communication mode.

6. ***The minimum standards prescribed by the State Board for pupils with dyslexia pursuant to paragraph (i) of subsection 4 must include, without limitation, standards for instruction on:***

(a) Phonemic awareness to enable a pupil to detect, segment, blend and manipulate sounds in spoken language;

(b) Graphonomic knowledge for teaching the sounds associated with letters in the English language;

(c) *The structure of the English language, including, without limitation, morphology, semantics, syntax and pragmatics;*

(d) *Linguistic instruction directed toward proficiency and fluency with the patterns of language so that words and sentences are carriers of meaning; and*

(e) *Strategies that a pupil may use for decoding, encoding, word recognition, fluency and comprehension.*

7. No apportionment of state money may be made to any school district or charter school for the instruction of pupils with disabilities and gifted and talented pupils until the program of instruction maintained therein for such pupils is approved by the Superintendent of Public Instruction as meeting the minimum standards prescribed by the State Board.

~~{7-}~~ 8. The Department shall, upon the request of the board of trustees of a school district, provide information to the board of trustees concerning the identification and evaluation of pupils with disabilities in accordance with the standards prescribed by the State Board.

~~{8-}~~ 9. The Department shall post on the Internet website maintained by the Department the data that is submitted to the United States Secretary of Education pursuant to 20 U.S.C. § 1418 within 30 days after submission of the data to the Secretary in a manner that does not result in the disclosure of data that is identifiable to an individual pupil.

Sec. 17. NRS 391.037 is hereby amended to read as follows:

391.037 1. The State Board shall:

(a) Prescribe by regulation the standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or to perform other educational functions. ***The regulations prescribed pursuant to this paragraph must include, without limitation, training on how to identify a pupil who is at risk for dyslexia or related disorders.***

(b) Maintain descriptions of the approved courses of study required to qualify for endorsements in fields of specialization and provide to an applicant, upon request, the approved course of study for a particular endorsement.

2. Except for an applicant who submits an application for the issuance of a license pursuant to subparagraph (1) of paragraph (a) or paragraph (g) or (j) of subsection 1 of NRS 391.019, an applicant for a license as a teacher or administrator or to perform some other educational function must submit with his or her application, in the form prescribed by the Superintendent of Public Instruction, proof that the applicant has satisfactorily completed a course of study and training approved by the State Board pursuant to subsection 1.

Sec. 18. ~~[The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.]~~
(Deleted by amendment.)

Sec. 19. This act becomes effective on July 1, 2015.

Assemblywoman Woodbury moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 356.

Bill read second time.

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

Amendment No. 524.

SUMMARY—~~[Revises provisions governing labor organizations.]~~
Prohibits certain unlawful acts. (BDR ~~{53-844}~~) **3-844**)

AN ACT relating to ~~labor organizations;~~ **unlawful acts;** prohibiting a ~~labor organization;~~ **person** from engaging in certain acts against a business; **prohibiting certain activities while engaged in picketing; providing civil and criminal penalties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law protects employees from compulsory membership in a labor organization. (NRS 613.270) Section 2 of this bill prohibits a labor organization from threatening or otherwise attempting to illegally coerce or threaten a business into complying with a demand of the labor organization. Section 3 of this bill prohibits a labor organization or its members or agents from physically damaging the property or merchandise of any business. Section 4 of this bill provides that existing law governing the right to work and the provisions of this bill are not to be construed as limiting the rights of labor organizations or employees under the First Amendment to the United States Constitution. Section 8 of this bill provides for a civil action for violations of the provisions of this bill and provides for the vicarious liability of a labor organization for the actions of its members and presumed damages of \$5,000, or actual damages, whichever is greater and related attorney's fees and costs.]~~
Section 2 of this bill prohibits a person from committing certain acts with the intent to coerce or intimidate a business. Section 3 of this bill prohibits a person from intentionally or recklessly destroying, marking or damaging the property or merchandise owned by or in the control of a business. Section 4.5 of this bill prescribes certain civil remedies that may be available for a violation of section 2 or 3.

Section 9.7 of this bill repeals provisions of existing law which provide that it is unlawful, in the context of certain labor-related disputes, to engage in certain activities while picketing. (NRS 614.160) Section 9.3 of this bill reenacts provisions of general applicability which prohibit certain activities while picketing, without regard to the purpose for which a person is engaged in picketing. Section 9.3 provides that it is unlawful for a person, while picketing, to: (1) picket on private property without consent or a court order; (2) narrow, block, or otherwise obstruct the ingress or egress to public or private property or obstruct any public or private roadway so as to prevent the safe passage of vehicles; (3)

knowingly threaten, assault or touch a person entering or leaving any public or private property, or to use language or words threatening to do immediate physical harm to a person or the property of a person or to incite fear of immediate physical harm to a person; or (4) knowingly spread, drop, throw or disperse certain sharp objects in the entrances to or exits from any public or private property. A violation of section 9.3 is a misdemeanor, and a person may petition a court to enjoin ongoing activity that is a violation of that section. A person who files a petition to enjoin such activity is entitled to a rebuttable presumption of irreparable harm.

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

Section 1. Chapter ~~[613]~~ 40 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~[, 3 and 4]~~ to 4.5, inclusive, of this act.

Sec. 2. A ~~[labor organization or any member or agent thereof]~~ person shall not damage, injure, harm, threaten or maliciously disrupt the lawful activities of any business or any employee or representative of that business with the intent ~~[of coercing or intimidating]~~ to coerce or intimidate that business ~~. [, employee or representative into agreeing to or otherwise complying with a demand of the labor organization, including, without limitation, any agreement concerning neutrality during a labor dispute or collective bargaining.]~~

Sec. 3. A ~~[labor organization or any member or agent thereof]~~ person shall not intentionally or recklessly destroy, mark or damage the property or merchandise owned by or in the control of any business.

Sec. 4. The provisions of ~~[NRS 613.230 to 613.300, inclusive, and]~~ sections 2 ~~[, 3 and 4]~~ of this act are not intended to infringe upon or impede any lawful exercise of rights provided by the First Amendment to the United States Constitution, including, without limitation, lawful picketing conducted in accordance with the provisions of ~~[NRS 614.160]~~ section 9.3 of this act.

Sec. 4.5. 1. A business or the owner of a business may bring a civil action against a person for an alleged violation of section 2 or 3 of this act, and may recover:

(a) Actual damages; and

(b) Attorney's fees and costs incurred in the action.

2. A business or the owner of a business aggrieved by a violation of section 2 or 3 of this act may petition a court of competent jurisdiction to enjoin any ongoing activity that is alleged to be a violation of section 2 or 3 of this act.

Sec. 5. ~~[NRS 613.230 is hereby amended to read as follows:~~
~~613.230 As used in NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 of this act, the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which~~

employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment. ~~](Deleted by amendment.)~~

Sec. 6. ~~[NRS 613.260 is hereby amended to read as follows:~~

~~613.260 Any act or any provision in any agreement which is in violation of NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 of this act shall be illegal and void. Any strike or picketing to force or induce any employer to make an agreement in writing or orally in violation of NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 of this act shall be for an illegal purpose.](Deleted by amendment.)~~

Sec. 7. ~~[NRS 613.280 is hereby amended to read as follows:~~

~~613.280 Any combination or conspiracy by two or more persons to violate any provision of NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 of this act, or to cause the discharge of any person or to cause such person to be denied employment because he or she is not a member of a labor organization, by inducing or attempting to induce any other person to refuse to work with such person, shall be illegal.](Deleted by amendment.)~~

Sec. 8. ~~[NRS 613.290 is hereby amended to read as follows:~~

~~613.290 1. Any person who violates any provision of NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 of this act, or who enters into any agreement containing a provision declared illegal by NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 of this act, or who shall bring about the discharge or the denial of employment of any person because of nonmembership in a labor organization shall be liable to the person injured as a result of such act or provision and may be sued therefor, and in any such action any labor organization, subdivision or local thereof shall be held to be bound by the acts of its duly authorized agents acting within the scope of their authority and may sue or be sued in its common name.~~

~~2. In a civil action brought by or on behalf of a person injured pursuant to subsection 1, the defendant is liable for:~~

~~(a) Presumed damages in the amount of \$5,000 or the amount of actual damages, whichever is greater; and~~

~~(b) Attorney's fees and costs incurred as a result of bringing the action.](Deleted by amendment.)~~

Sec. 9. ~~[NRS 613.300 is hereby amended to read as follows:~~

~~613.300 Any person injured or threatened with injury by an act declared illegal by NRS 613.230 to 613.300, inclusive, and sections 2, 3 and 4 of this act shall, notwithstanding any other provision of the law to the contrary, be entitled to injunctive relief therefrom.](Deleted by amendment.)~~

Sec. 9.3. Chapter 203 of NRS is hereby amended by adding thereto a new section to read as follows:

1. It is unlawful for any person:

(a) To picket on private property without the written permission of the owner or unless the person obtains an order from a court or agency of

competent jurisdiction authorizing such activity, except that an employee may enter or leave his or her employer's property in the course of his or her employment or for the purpose of receiving payment for services performed;

(b) To maintain any picket or picket line, individually or as part of a group, in front of or across entrances to or exits from any property if such picket or picket line narrows or blocks the entrances or exits, or interferes with the ability of a person or vehicle to enter or leave the property;

(c) Knowingly to threaten, assault or in any manner physically touch the person, clothing or vehicle of any person attempting to enter or leave any property, including, without limitation, any employees, agents, contractors, representatives, guests, customers or others doing or attempting to do business with the owner or occupant of the property;

(d) Intentionally to operate a motor vehicle so as to delay, impede or interfere with the ability of persons or vehicles to enter or leave any property;

(e) To use language or words threatening to do immediate physical harm to a person or the property of the person or designed to incite fear of immediate physical harm in any person attempting to enter or leave any property;

(f) Knowingly to spread, drop, throw or disperse nails, tacks, staples, glass or other sharp objects in the entrances to or exits from any property;

(g) Intentionally to obstruct the ingress or egress of any property from any public or private place in such a manner as to not leave a free passageway for persons and vehicles lawfully seeking to enter or leave the public or private place; or

(h) Intentionally to obstruct any public or private roadway, including, without limitation, intersections, so as to prevent the safe passage of vehicles thereon or therethrough.

2. Each local government shall by ordinance adopt a procedure by which it may grant a variance from the provisions of paragraph (b) of subsection 1, except that the local government shall not grant a variance:

(a) Specifically permitting the obstruction by picketing of any public or private roadway or the ingress or egress of any public or private place; or

(b) Permitting picketing if such activity would necessarily involve or require the obstruction of any public or private roadway or the ingress or egress of any public or private place.

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

4. A person aggrieved by a violation of this section may petition a court of competent jurisdiction to enjoin any ongoing activity that is alleged to be a violation of this section. A person who files a petition to enjoin any activity that is alleged to be a violation of this section is entitled to a rebuttable presumption of irreparable harm.

5. The provisions of subsections 3 and 4 do not preclude any additional civil action or criminal prosecution based upon acts which are otherwise prohibited by law.

6. Nothing in this section shall be deemed to alter, modify, amend or conflict with any provision of federal law, including, without limitation, the National Labor Relations Act, 29 U.S.C. §§ 151 et seq., or the Labor Management Relations Act, 29 U.S.C. §§ 401 et seq.

7. As used in this section, “picket” or “picketing” means the stationing of a person or persons at any location or area for the purpose of engaging in a demonstration or protest.

Sec. 9.5. NRS 449.760 is hereby amended to read as follows:

449.760 1. Except as otherwise provided in this section, a person shall not intentionally prevent another person from entering or exiting the office of a physician, a health facility, a nonprofit health facility, a public health center, a medical facility or a facility for the dependent by physically:

- (a) Detaining the other person; or
- (b) Obstructing, impeding or hindering the other person’s movement.

2. The provisions of subsection 1 are inapplicable to:

(a) An officer, employee or agent of the physician, health facility, nonprofit health facility, public health center, medical facility or facility for the dependent; or

(b) A peace officer as defined in NRS 169.125,

→ while acting within the course and scope of his or her duties or employment.

3. The provisions of subsection 1 do not prohibit a person from maintaining a picket during a strike or work stoppage in compliance with the provisions of ~~NRS 614.160~~, **section 9.3 of this act** or from engaging in any constitutionally protected exercise of free speech.

4. A person who violates the provisions of subsection 1 is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000, or by imprisonment in the county jail for not more than 3 months, or by both fine and imprisonment.

5. As used in this section, the terms “health facility,” “nonprofit health facility” and “public health center” have the meanings ascribed to them in NRS 449.260.

Sec. 9.7. NRS 641.160 is hereby repealed.

Sec. 10. This act becomes effective ~~on July 1, 2015,~~ upon passage and approval.

TEXT OF REPEALED SECTION

614.160 Picketing: Unlawful acts; acceptable acts; local variance; penalty.

1. During the pendency of a strike, work stoppage or other dispute, it is unlawful for any person:

(a) To picket on private property without the written permission of the owner or pursuant to an order from a federal court or agency of competent jurisdiction, even if the private property is open to the public as invitees for business, except that an employee may enter or leave his or

her employer's property in the course of his or her employment or for the purpose of receiving payment for services performed;

(b) To maintain any picket or picket line, individually or as part of a group, in front of or across entrances to or exits from any property, except that the following numbers of pickets may be maintained across entrances or exits if the pickets do not narrow or block the entrances or exits or delay, impede or interfere with the ability of persons or vehicles to enter or leave the property;

(1) Two pickets at pedestrian entrances and exits;

(2) Two pickets at driveway entrances and exits 20 feet or less in width; and

(3) Six pickets at driveway entrances and exits more than 20 feet in width;

(c) Knowingly to threaten, molest, assault, or in any manner physically touch the person, clothing or vehicle of any person attempting to enter or leave any property, including employees, agents, contractors, representatives, guests, customers or others doing or attempting to do business with the owner or occupant;

(d) Intentionally to operate a motor vehicle so as to delay, impede or interfere with the ability of persons or vehicles to enter or leave any property;

(e) To use language or words threatening to do harm to a person or the property of the person or designed to incite fear in any person attempting to enter or leave any property; or

(f) Knowingly to spread, drop, throw or otherwise knowingly to disperse nails, tacks, staples, glass or other objects in the entrances to or exits from any property.

2. Any persons participating in a strike, work stoppage or other dispute may picket on the public sidewalks or other public areas between entrances and exits to any property if the pickets maintain a distance of 30 feet from each person or group of two persons to the next person or group and no more than two persons walk abreast.

3. Persons who picket any property may congregate in groups of 10 or fewer to confer with their captain at reasonable times or to obtain food and drink at reasonable times, but shall not so congregate within 30 feet of any entrance or exit.

4. Each county shall adopt by ordinance a procedure by which it may grant a variance from the provisions of paragraph (b) of subsection 1.

5. Any person who violates the prohibitions of this section or of a variance granted pursuant to subsection 4 is guilty of a misdemeanor. This section does not preclude civil action or additional criminal prosecution based upon acts which are prohibited by this section.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 357.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 544.

AN ACT relating to criminal procedure; authorizing certain persons who are prohibited from owning, possessing or having under their custody or control any firearm or who have had certain civil rights taken away to petition the court to restore ~~their right to own, possess and control any firearm~~ such rights in certain circumstances; ~~providing for the immediate restoration of certain civil rights if a person's right to own, possess and control any firearm is restored;~~ authorizing a prosecuting attorney to inquire into, inspect and use as evidence certain sealed records in certain circumstances; adding a person who has been convicted of a misdemeanor crime ~~that constitutes~~ of domestic violence to the list of persons who are prohibited from owning or having in their possession or under their custody or control any firearm; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits certain persons from owning or having in their possession or under their custody or control any firearm, including a person who has been convicted of a felony in this State or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms. (NRS 202.360) **Section 5** of this bill adds to such a list of persons a person who has been convicted in this State or any other state of a misdemeanor crime ~~that constitutes~~ of domestic violence ~~pursuant to Nevada law or a substantially similar law of any other state,~~ , as defined in federal law.

Section 2 of this bill establishes a procedure by which a person who : (1) is prohibited from owning or having in his or her possession or under his or her custody or control any firearm because the person has been convicted of a felony ~~in this State or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America~~ or a misdemeanor crime of domestic violence; or (2) has had his or her civil rights to vote, to serve as a juror in a civil or criminal action and to hold office taken away and has not had all such rights restored, may , after a certain applicable waiting period, petition the district court in the county in which the person resides or in which the person was convicted for the restoration of such ~~to right to own, possess and control a firearm,~~ rights. For a person to be eligible to have such ~~to right~~ rights restored ~~, the following requirements must be met: (1) the offense for which the person was convicted is one of certain category D or E felonies; (2) 2 years have elapsed since the~~

~~most recent completion of the person's sentence for such an offense; (3) the person has never been convicted of any other felony or a crime that constitutes domestic violence; (4) the person is not currently facing charges for certain offenses in this State or another jurisdiction; (5) the person has not been dishonorably discharged from parole or probation; and (6)]~~ : **(1) the person must not currently be serving any sentence or facing any new charge for an offense which would cause the person to be ineligible to petition to have such rights restored; and (2) if the person is seeking the restoration of his or her firearm rights,** the person ~~is~~ **must** not otherwise ~~be~~ prohibited from possessing a firearm under any other applicable provision of the laws of this State.

Section 2 also requires that a date for a hearing on such a petition be set for not earlier than 30 days and not later than 120 days after a petition is filed, unless waived by the parties. The court is required to make a decision within 30 days after the hearing on the petition is completed.

Section 2 additionally requires the court to issue an order restoring a petitioner's ~~civil rights and the~~ right to own, possess and control any firearm if: **(1) the petitioner has never been convicted of a misdemeanor crime of domestic violence; (2) the petitioner has never been convicted of a category A, B or C felony; and (3) the only category D or E felony for which the person has ever been convicted did not include certain elements. A petitioner who does not meet such criteria but meets certain other criteria must prove to** the court ~~{determines that the petitioner proves}~~ by clear and convincing evidence that he or she is rehabilitated and is unlikely to use ~~to a firearm in~~ **the restoration of any rights for** an unlawful ~~manner; and~~ **purpose.** If the court determines that the petitioner does not satisfy the burden of proof, ~~for if the petitioner has not made all restitution as ordered by the court, unless such failure was due to economic hardship,~~ the court is required to issue an order denying the restoration of such ~~to a right,~~ **rights and to state the basis for such a denial.** **Section 2** further authorizes such a petitioner to reapply for the restoration of such ~~to a right,~~ **rights** not earlier than 1 year after the date the court order is entered. ~~{Finally, section 2 provides that a person whose right to own, possess and control a firearm is restored is also immediately restored to the civil rights to vote, serve as a juror in a civil or criminal action and hold office, if any such civil rights have not previously been restored.}~~ **Finally, section 2 authorizes a person who has lost his or her civil rights as a result of a conviction in another state to petition the district court for the restoration of such rights if the person would otherwise be eligible to petition the district court for the restoration of such rights if the conviction that resulted in the loss of such rights occurred in this State.**

Existing law authorizes certain persons to inquire into and inspect certain records that have been sealed in certain circumstances. (NRS 179.301) **Section 3** of this bill authorizes a prosecuting attorney to inquire into and inspect certain sealed records if the person who is the subject of the records has

petitioned to have his or her right to own, possess and control any firearm restored pursuant to **section 2. Section 3** also authorizes a prosecuting attorney to use any such records as evidence during a hearing on such a petition.

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

Section 1. NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

- (a) Has fulfilled the conditions of probation for the entire period thereof;
- (b) Is recommended for earlier discharge by the Division; or
- (c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court,

↪ may be granted an honorable discharge from probation by order of the court.

2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge.

3. Except as otherwise provided in subsection 4 ~~1~~ **and section 2 of this act**, a person who has been honorably discharged from probation:

- (a) Is free from the terms and conditions of probation.
- (b) Is immediately restored to the following civil rights:
 - (1) The right to vote; and
 - (2) The right to serve as a juror in a civil action.
- (c) Four years after the date of honorable discharge from probation, is restored to the right to hold office.
- (d) Six years after the date of honorable discharge from probation, is restored to the right to serve as a juror in a criminal action.
- (e) If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.
- (f) Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.
- (g) Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.
- (h) Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, "establishment" has the meaning ascribed to it in NRS 463.0148.
- (i) Except as otherwise provided in paragraph (h), need not disclose the conviction to an employer or prospective employer.

4. Except as otherwise provided in this subsection, the civil rights set forth in subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this State:

- (a) Of a category A felony.
- (b) Of an offense that would constitute a category A felony if committed as of the date of the honorable discharge from probation.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of honorable discharge from probation.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

➡ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of civil rights as set forth in subsection 3.

5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

6. Except for a person subject to the limitations set forth in subsection 4, upon honorable discharge from probation, the person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge from probation;

(b) That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil action as of the date of honorable discharge from probation;

(c) The date on which the person's civil right to hold office will be restored pursuant to paragraph (c) of subsection 3; and

(d) The date on which the person's civil right to serve as a juror in a criminal action will be restored pursuant to paragraph (d) of subsection 3.

7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of honorable discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore the person's civil rights pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights set forth in subsection 3. A person must not be required to pay a fee to receive such an order.

8. A person who has been honorably discharged from probation in this State or elsewhere may present:

(a) Official documentation of honorable discharge from probation, if it contains the provisions set forth in subsection 6; or

(b) A court order restoring the person's civil rights,

➡ as proof that the person has been restored to the civil rights set forth in subsection 3.

Sec. 2. Chapter 179 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a person is prohibited pursuant to paragraph (a) of NRS 202.360 from owning or having in his or her possession or under his or her custody or control any firearm because the person has been convicted of a felony ~~in this State or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America,~~ or a misdemeanor crime of domestic violence, or if the person has had his or her civil rights to vote, to serve as a juror in a civil or criminal action and to hold office taken away and all such civil rights have not been restored, the person may, after the applicable waiting period set forth in subsection 2, petition the district court in the county in which the person resides or in which the person was convicted for the restoration of his or her right to own or have in his or her possession or under his or her custody or control any firearm and the restoration of his or her civil rights if ~~+~~ the person:

(a) ~~[The offense for which the person was convicted was]~~ Is not currently serving any sentence or facing any new charge for an offense which would cause the person to be ineligible to petition to have such rights restored; and

(b) If the person is seeking the restoration of the right to own or have in his or her possession or under his or her custody or control any firearm, is not otherwise prohibited from possessing a firearm under any other applicable provision of the laws of this State.

2. A person may petition the district court pursuant to subsection 1:

(a) One day after the completion of the person's sentence for an offense described in subparagraph (3) if:

(1) The person has never been convicted of a misdemeanor crime of domestic violence;

(2) The person has never been convicted of a category A, B or C felony; and

(3) The only category D or E felony for which the person has ever been convicted is a category D or E felony that did not include as an element of the offense:

~~[(1)]~~ (I) An attempt, threat or conspiracy to commit an act of violence against another person;

~~[(2)]~~ (II) An act of intentional violence against another person; or

~~[(3)]~~ (III) The intentional use of a deadly weapon.

(b) Two years ~~have elapsed since~~ after the ~~most recent~~ completion of the person's sentence for an offense described in ~~paragraph (a)~~ subparagraph (3) if the person:

(1) Has never been convicted of a misdemeanor crime of domestic violence;

(2) Has never been convicted of a category A, B, D or E felony; and

(3) The only category C felony for which the person has ever been convicted is a category C felony that did not include as an element of the offense:

(I) An attempt, threat or conspiracy to commit an act of violence against another person;

(II) An act of intentional violence against another person; or

(III) The intentional use of a deadly weapon.

~~(c) The person has never been convicted of a felony other than those described in paragraph (a) or a crime that constitutes domestic violence.~~

~~(d) The person is not currently facing charges for an offense described in paragraph (a) or (c) in this State or another jurisdiction.~~

~~(e) The person has not been dishonorably discharged from probation or parole.~~

~~(f) The person is not otherwise prohibited from possessing a firearm under any other applicable provision of the laws of this State.~~

~~2. Six years after the most recent completion of the person's sentence for an offense described in this paragraph if the person:~~

(1) Has never been convicted of a category A or B felony; and

(2) Has been convicted:

(I) Not more than once for a misdemeanor crime of domestic violence; or

(II) Of more than one category C, D or E felony that did not involve the intentional use of a deadly weapon with the intent to cause substantial bodily harm.

3. A petition filed pursuant to subsection ~~4~~ 2 must:

(a) Describe the rights for which restoration is being sought.

(b) Provide the date of any previous petition filed pursuant to this section and the date the court denied the restoration of any rights.

(c) Be accompanied by the petitioner's current, verified record of criminal history from the Central Repository for Nevada Records of Criminal History.

~~(b)~~ (d) Contain the following information:

(1) The petitioner's full legal name.

(2) Each alias that the petitioner has used or under which the petitioner may have been known.

(3) The petitioner's date of birth.

(4) The petitioner's driver's license number.

(5) The petitioner's current residential address.

(6) Each residential address of the petitioner during the 10 years preceding the filing of the petition.

(7) For each criminal conviction of the petitioner:

(I) The arresting agency;

(II) The date of arrest;

(III) The charges that were filed against the petitioner;

(IV) Whether the offense committed was a misdemeanor or felony, and if a felony, whether the offense was a category A, B, C, D or E felony;

(V) The sentencing court;

(VI) The case number;

(VII) The date of the final disposition of the case;

(VIII) The sentence imposed upon the petitioner; and

(IX) The date on which the petitioner completed the sentence.

~~{3.}~~ 4. Upon receiving a petition from a petitioner who meets the requirements of ~~subsection 1,~~ this section, the court shall, at least 30 days before the hearing scheduled pursuant to subsection 5, notify the district attorney for the county in which the court is located and the district attorney for ~~the~~ each county in which the petitioner was convicted ~~of an applicable felony or misdemeanor crime of domestic violence.~~

~~{4.}~~ 5. Unless waived by the consent of both the petitioner and the district attorney for the county in which the petition is filed, a date for a hearing on the petition must be set for not earlier than 30 days and not later than 120 days after a petition complying with the requirements of subsection ~~{2}~~ 3 is filed. ~~{Any person who is able to offer}~~ The court may consider any relevant evidence ~~{to the court may testify and present evidence}~~ at the hearing on the petition ~~of~~ , including, without limitation, oral testimony, declarations, affidavits and police reports. The court shall issue its decision within 30 days after the hearing on the petition is completed.

~~{5.}~~ 6. If a petitioner petitions the court for the restoration of his or her rights pursuant to:

(a) Paragraph (a) of subsection 2, the court shall, upon verifying that the petitioner is eligible to have his or her rights restored, issue an order setting forth the restoration of the petitioner's right to own or have in his or her possession or under his or her custody or control any firearm and the petitioner's civil rights to vote, to serve as a juror in a civil or criminal action and to hold office.

(b) Paragraph (b) or (c) of subsection 2, the court shall, if it determines that the petitioner proves by clear and convincing evidence that he or she is rehabilitated and is unlikely to use ~~{a firearm in}~~ the restoration of any rights for an unlawful ~~{manner, and the petitioner has made all restitution as ordered by the court, the court shall}~~ purpose, issue an order ~~{restoring the petitioner's right to own or have in his or her possession or under his or her custody or control any firearm,}~~ setting forth which rights are restored.

↪ A copy of ~~{the}~~ any order issued pursuant to this subsection must be provided to the petitioner and the Department of Public Safety.

~~{6. Except as otherwise provided in subsection 7, if}~~

7. If the court determines that ~~{the}~~ a petitioner who petitioned the court for the restoration of his or her rights pursuant to paragraph (b) or (c) of subsection 2 does not prove by clear and convincing evidence that he or she is rehabilitated and is unlikely to use ~~{a firearm in}~~ the restoration of any rights for an unlawful ~~{manner, or if the petitioner has been unable to make restitution as ordered by the court,}~~ purpose, the court shall issue an order denying the restoration of the petitioner's ~~{right to own or have in his or her possession or under his or her custody or control any firearm,}~~ rights and shall state the basis for such a denial. A petitioner who is denied the restoration of ~~{such a right}~~ rights pursuant to this subsection may reapply

for the restoration of such ~~rights~~ rights not earlier than 1 year after the date the court order is entered.

~~{ 7. A court shall not deny the restoration of a petitioner's right to own or have in his or her possession or under his or her custody or control any firearm because of the fact that the petitioner has failed to make restitution as ordered by the court if the petitioner demonstrates that his or her failure to satisfy such a financial obligation was due to economic hardship. }~~

~~8. A person whose right to own or have in his or her possession or under his or her custody or control any firearm is restored pursuant to this section is also immediately restored to the following civil rights, if any such rights have not previously been restored:~~

~~— (a) The right to vote;~~

~~— (b) The right to serve as a juror in a civil or criminal action; and~~

~~— (c) The right to hold office. }~~ A person who has lost his or her civil rights to vote, to serve as a juror in a civil or criminal action and to hold office as a result of a conviction in another state may petition the district court for the restoration of such civil rights pursuant to this section if the person would otherwise be eligible to petition the district court for the restoration of such civil rights pursuant to this section if the conviction that resulted in the loss of such civil rights occurred in this State.

9. As used in this section, "misdemeanor crime of domestic violence" has the meaning ascribed to it in 18 U.S.C. § 921(a)(33).

Sec. 3. NRS 179.301 is hereby amended to read as follows:

179.301 1. The State Gaming Control Board and the Nevada Gaming Commission and their employees, agents and representatives may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255, if the event or conviction was related to gaming, to determine the suitability or qualifications of any person to hold a state gaming license, manufacturer's, seller's or distributor's license or registration as a gaming employee pursuant to chapter 463 of NRS. Events and convictions, if any, which are the subject of an order sealing records:

(a) May form the basis for recommendation, denial or revocation of those licenses.

(b) Must not form the basis for denial or rejection of a gaming work permit unless the event or conviction relates to the applicant's suitability or qualifications to hold the work permit.

2. A prosecuting attorney may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 if:

(a) The records relate to a violation or alleged violation of NRS 202.575; and

(b) The person who is the subject of the records has been arrested or issued a citation for violating NRS 202.575.

3. A prosecuting attorney may:

(a) Inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 if the person who is the subject of the records has petitioned to

have his or her right to own or have in his or her possession or under his or her control or custody any firearm pursuant to section 2 of this act; and

(b) Use any such records as evidence during a hearing on the petition.

4. The Central Repository for Nevada Records of Criminal History and its employees may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 that constitute information relating to sexual offenses, and may notify employers of the information in accordance with NRS 179A.180 to 179A.240, inclusive.

~~4.1~~ 5. Records which have been sealed pursuant to NRS 179.245 or 179.255 and which are retained in the statewide registry established pursuant to NRS 179B.200 may be inspected pursuant to chapter 179B of NRS by an officer or employee of the Central Repository for Nevada Records of Criminal History or a law enforcement officer in the regular course of his or her duties.

~~5.1~~ 6. The State Board of Pardons Commissioners and its agents and representatives may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 if the person who is the subject of the records has applied for a pardon from the Board.

~~6.1~~ 7. As used in this section:

(a) “Information relating to sexual offenses” means information contained in or concerning a record relating in any way to a sexual offense.

(b) “Sexual offense” has the meaning ascribed to it in NRS 179A.073.

Sec. 4. NRS 6.010 is hereby amended to read as follows:

6.010 Except as otherwise provided in this section, every qualified elector of the State, whether registered or not, who has sufficient knowledge of the English language, and who has not been convicted of treason, a felony, or other infamous crime, and who is not rendered incapable by reason of physical or mental infirmity, is a qualified juror of the county in which the person resides. A person who has been convicted of a felony is not a qualified juror of the county in which the person resides until the person’s civil right to serve as a juror has been restored pursuant to NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 ~~1.1~~ **or section 2 of this act.**

Sec. 5. NRS 202.360 is hereby amended to read as follows:

202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been convicted of a felony in this **State** or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person ~~has~~:

(1) **Has** received a pardon and the pardon does not restrict his or her right to bear arms; **or**

(2) **Has had his or her right to own or have in his or her possession or under his or her custody or control any firearm restored pursuant to section 2 of this act;** ~~1.1~~

(b) **Has been convicted in this State or any other state of a misdemeanor crime that constitutes of domestic violence pursuant to NRS 33.018 or a substantially similar law of any other state;** ~~as defined in 18 U.S.C. §~~

921(a)(33), unless the person has had his or her right to own or have in his or her possession or under his or her custody or control any firearm restored pursuant to section 2 of this act;

(c) Is a fugitive from justice; or

~~{(c)}~~ (d) Is an unlawful user of, or addicted to, any controlled substance.

➔ A person who violates the provisions of this subsection is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been adjudicated as mentally ill or has been committed to any mental health facility; or

(b) Is illegally or unlawfully in the United States.

➔ A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section:

(a) "Controlled substance" has the meaning ascribed to it in 21 U.S.C. § 802(6).

(b) "Firearm" includes any firearm that is loaded or unloaded and operable or inoperable.

Sec. 6. NRS 209.511 is hereby amended to read as follows:

209.511 1. When an offender is released from prison by expiration of his or her term of sentence, by pardon or by parole, the Director:

(a) May furnish the offender with a sum of money not to exceed \$100, the amount to be based upon the offender's economic need as determined by the Director;

(b) Shall give the offender notice of the provisions of chapter 179C of NRS and NRS 202.357 and 202.360;

(c) Shall require the offender to sign an acknowledgment of the notice required in paragraph (b);

(d) Shall give the offender notice of the provisions of NRS 179.245 and the provisions of NRS 213.090, 213.155 or 213.157, **and section 2 of this act**, as applicable;

(e) Shall provide the offender with information relating to obtaining employment, including, without limitation, any programs which may provide bonding for an offender entering the workplace and any organizations which may provide employment or bonding assistance to such a person;

(f) Shall provide the offender with a photo identification card issued by the Department and information and reasonable assistance relating to acquiring a valid driver's license or identification card to enable the offender to obtain employment, if the offender:

(1) Requests a photo identification card; or

(2) Requests such information and assistance and is eligible to acquire a valid driver's license or identification card from the Department of Motor Vehicles;

(g) May provide the offender with clothing suitable for reentering society;

(h) May provide the offender with the cost of transportation to his or her place of residence anywhere within the continental United States, or to the place of his or her conviction;

(i) May, but is not required to, release the offender to a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS; and

(j) Shall require the offender to submit to at least one test for exposure to the human immunodeficiency virus.

2. The costs authorized in paragraphs (a), (f), (g), (h) and (j) of subsection 1 must be paid out of the appropriate account within the State General Fund for the use of the Department as other claims against the State are paid to the extent that the costs have not been paid in accordance with subsection 5 of NRS 209.221 and NRS 209.246.

3. As used in this section:

(a) "Facility for transitional living for released offenders" has the meaning ascribed to it in NRS 449.0055.

(b) "Photo identification card" means a document which includes the name, date of birth and a color picture of the offender.

Sec. 7. NRS 213.155 is hereby amended to read as follows:

213.155 1. Except as otherwise provided in subsection 2 ~~to~~ **and section 2 of this act**, a person who receives an honorable discharge from parole pursuant to NRS 213.154:

(a) Is immediately restored to the following civil rights:

(1) The right to vote; and

(2) The right to serve as a juror in a civil action.

(b) Four years after the date of his or her honorable discharge from parole, is restored to the right to hold office.

(c) Six years after the date of his or her honorable discharge from parole, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has received an honorable discharge from parole if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his or her honorable discharge from parole.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her honorable discharge from parole.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

➡ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in subsection 1.

3. Except for a person subject to the limitations set forth in subsection 2, upon his or her honorable discharge from parole, a person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge from parole;

(b) That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil action as of the date of his or her honorable discharge from parole;

(c) The date on which his or her civil right to hold office will be restored to the person pursuant to paragraph (b) of subsection 1; and

(d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph (c) of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has been honorably discharged from parole in this State or elsewhere and whose official documentation of his or her honorable discharge from parole is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been honorably discharged from parole and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

5. A person who has been honorably discharged from parole in this State or elsewhere may present:

(a) Official documentation of his or her honorable discharge from parole, if it contains the provisions set forth in subsection 3; or

(b) A court order restoring his or her civil rights,
➡ as proof that the person has been restored to the civil rights set forth in subsection 1.

6. The Board may adopt regulations necessary or convenient for the purposes of this section.

Sec. 8. NRS 213.157 is hereby amended to read as follows:

213.157 1. Except as otherwise provided in subsection 2 ~~and~~ **and section 2 of this act**, a person convicted of a felony in the State of Nevada who has served his or her sentence and has been released from prison:

(a) Is immediately restored to the following civil rights:

(1) The right to vote; and

(2) The right to serve as a juror in a civil action.

(b) Four years after the date of his or her release from prison, is restored to the right to hold office.

(c) Six years after the date of his or her release from prison, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in subsection 1 are not restored to a person who has been released from prison if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his or her release from prison.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her release from prison.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

➡ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in subsection 1.

3. Except for a person subject to the limitations set forth in subsection 2, upon his or her release from prison, a person so released must be given an official document which provides:

(a) That the person has been released from prison;

(b) That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil action as of the date of his or her release from prison;

(c) The date on which his or her civil right to hold office will be restored to the person pursuant to paragraph (b) of subsection 1; and

(d) The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to paragraph (c) of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has been released from prison in this State or elsewhere and whose official documentation of his or her release from prison is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore his or her civil rights pursuant to this section. Upon verification that the person has been released from prison and is eligible to be restored to the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights set forth in subsection 1. A person must not be required to pay a fee to receive such an order.

5. A person who has been released from prison in this State or elsewhere may present:

(a) Official documentation of his or her release from prison, if it contains the provisions set forth in subsection 3; or

(b) A court order restoring his or her civil rights,

↪ as proof that the person has been restored to the civil rights set forth in subsection 1.

Sec. 9. NRS 293.540 is hereby amended to read as follows:

293.540 The county clerk shall cancel the registration:

1. If the county clerk has personal knowledge of the death of the person registered, or if an authenticated certificate of the death of any elector is filed in the county clerk's office.

2. If the county clerk is provided a certified copy of a court order stating that the court specifically finds by clear and convincing evidence that the person registered lacks the mental capacity to vote because he or she cannot communicate, with or without accommodations, a specific desire to participate in the voting process.

3. Upon the determination that the person registered has been convicted of a felony unless:

(a) If the person registered was convicted of a felony in this State, the right to vote of the person has been restored pursuant to the provisions of NRS 213.090, 213.155 or 213.157 ~~or~~ **or section 2 of this act.**

(b) If the person registered was convicted of a felony in another state, the right to vote of the person has been restored pursuant to the laws of the state in which the person was convicted.

4. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.

5. Upon the request of any registered voter to affiliate with any political party or to change affiliation, if that change is made before the end of the last day to register to vote in the election.

6. At the request of the person registered.

7. If the county clerk has discovered an incorrect registration pursuant to the provisions of NRS 293.5235, 293.530 or 293.535 and the elector has failed to respond or appear to vote within the required time.

8. As required by NRS 293.541.

9. Upon verification that the application to register to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.

Sec. 10. NRS 293.543 is hereby amended to read as follows:

293.543 1. If the registration of an elector is cancelled pursuant to subsection 2 of NRS 293.540, the county clerk shall reregister the elector upon notice from the clerk of the district court that the elector has been found by the district court to have the mental capacity to vote. The court must include the finding in a court order and, not later than 30 days after issuing the order, provide a certified copy of the order to the county clerk of the county in which the person is a resident and to the Office of the Secretary of State.

2. If the registration of an elector is cancelled pursuant to subsection 3 of NRS 293.540, the elector may reregister after presenting satisfactory evidence which demonstrates that the elector's:

(a) Conviction has been overturned; or

(b) Civil rights have been restored:

(1) If the elector was convicted in this State, pursuant to the provisions of NRS 213.090, 213.155 or 213.157 ~~[-] or section 2 of this act.~~

(2) If the elector was convicted in another state, pursuant to the laws of the state in which he or she was convicted.

3. If the registration of an elector is cancelled pursuant to the provisions of subsection 5 of NRS 293.540, the elector may reregister immediately.

4. If the registration of an elector is cancelled pursuant to the provisions of subsection 6 of NRS 293.540, after the close of registration for a primary election, the elector may not reregister until after the primary election.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 359.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 554.

AN ACT relating to common-interest communities; ~~enacting provisions governing hearings conducted by the executive board of a unit owners' association on alleged violations of the governing documents; providing for the payment of a per diem to members of the executive board of an association under certain circumstances; revising provisions governing the approval of certain capital improvements to a common interest community;]~~ revising provisions governing ~~the foreclosure of an~~ a unit-owners' association's lien for certain amounts due to the association; ~~providing for the Commission for Common Interest Communities and Condominium Hotels and its hearing panels to conduct hearings and take certain actions on breaches of the governing documents of a common interest community;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[- Existing law requires the executive board of a common interest community to provide a unit's owner and, if different, a person against whom a fine will be imposed with: (1) written notice containing certain information; and (2) a reasonable opportunity to cure an alleged violation or contest the alleged violation at a hearing before imposing a fine. (NRS 116.31031) Section 2 of this bill: (1) specifies the required contents of the written notice and prescribes the manner in which the executive board is required to provide the notice; and (2) prohibits the imposition of a fine if the violation is cured within a reasonable time. Section 2 further specifies the procedures for the hearing before the executive board, including, without limitation, a requirement that each party to the hearing disclose certain information to the other parties, a provision authorizing a unit's owner or the person against whom the fine will be imposed to challenge a member of the executive board or hearing committee for bias, conflict of interest or certain other causes and a provision~~

governing continuances of the hearing. Finally, section 2 authorizes a party to a hearing to make an audio or video recording of a hearing, request a transcript of a hearing and arrange for an interpreter at the party's own expense.

~~— Section 4 of this bill specifically authorizes the bylaws of an association to provide for the payment of a per diem, not to exceed \$100 per day, to members of the executive board for each day or portion of a day of attendance at a meeting of the executive board or while engaged in the business of the executive board. Such a provision must be adopted at a meeting of the units' owners by: (1) at least 35 percent of the units' owners other than the declarant; and (2) a majority of the units' owners, other than the declarant, who vote on the provision.~~

~~— Existing law requires an association to provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the meeting. (NRS 116.3115) Section 6 of this bill prohibits the association from making a capital improvement that costs more than \$5,000 unless the capital improvement is approved by units' owners constituting at least 25 percent of the total number of voting members of the association. Under section 20 of this bill, the approval of the units' owners is not required if a contract for the construction of the capital improvement is entered into before October 1, 2015, the effective date of the bill.~~

~~— Under existing law, the Commission for Common Interest Communities and Condominium Hotels and hearing panels of the Commission have jurisdiction to take certain actions against persons who violate the provisions of existing statutes or regulations governing common interest communities. (NRS 116.745-116.795) A claim concerning a breach of the conditions, covenants or restrictions of a common interest community or the bylaws, rules or regulations adopted by an association must be submitted to mediation, or a referee or hearing officer program established by the Real Estate Division of the Department of Business and Industry, before a civil action based upon the claim may be filed with a court. (NRS 38.300-38.360) Sections 9-17 of this bill provide that: (1) the Commission and its hearing panels have jurisdiction over a breach of the governing documents; (2) if an affidavit alleging such a breach is filed with the Division, the Division must schedule a hearing before the Commission or a hearing panel concerning the breach; (3) any hearing before the Commission or hearing panel concerning the breach must be conducted in the same manner as a hearing concerning a violation of law; and (4) if the Commission or hearing panel finds that a breach of the governing documents has occurred, the Commission or hearing panel may take the same actions and impose the same penalties that apply to a violation of law.}]~~

Under existing law, a unit-owners' association has a lien on a unit for certain amounts due to the association, and ~~{authorizes}~~ an association ~~{to foreclose}~~ **may foreclose** its lien through a nonjudicial foreclosure process. (NRS 116.3116-116.31168) ~~{Sections 1, 3, 5, 7, 8, 18, 19 and 21 of this bill repeal provisions authorizing a unit owners' association to foreclose its lien~~

~~through a nonjudicial foreclosure process and, instead, section 7 authorizes the association to foreclose its lien through the judicial foreclosure process.]~~
Under existing law, generally, the association's lien is not prior to a first security interest on the unit recorded before the date on which the amount sought to be enforced became delinquent. However, the association's lien is prior to the first security interest on the unit to the extent of certain maintenance and abatement charges and a certain amount of assessments for common expenses. The portion of the association's lien that is prior to the first security interest on the unit is commonly referred to as the "super-priority lien." (NRS 116.3116) In *SFR Investments Pool 1, LLC v. U.S. Bank*, 130 Nev. Adv. Op. 75, 334 P.3d 408 (2014), the Nevada Supreme Court held that the foreclosure of the super-priority lien by the association extinguishes the first security interest on the unit.

This bill provides that the foreclosure of the super-priority lien by the association does not extinguish a first security interest on the unit or a second mortgage or deed of trust on the unit. Thus, under this bill, if the holder of a security interest, lien or encumbrance on a unit, other than the association, forecloses on the unit, the association would be entitled to a distribution of the proceeds of the sale in accordance with the priority accorded to the association's lien under existing law. However, if the association forecloses its lien on a unit by sale, the association's foreclosure does not extinguish the first security interest on the unit or a second mortgage or deed of trust on the unit but does extinguish any other security interest, liens or encumbrances subordinate to the association's lien under existing law.

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

~~Section 1. [NRS 116.12075 is hereby amended to read as follows:
116.12075 1. The provisions of this chapter do not apply to a
nonresidential condominium except to the extent that the declaration for the
nonresidential condominium provides that:
(a) This entire chapter applies to the condominium;
(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and
116.3116 [to 116.31168, inclusive,] apply to the condominium; or
(c) Only the provisions of NRS 116.3116 [to 116.31168, inclusive,] apply
to the condominium.
2. If this entire chapter applies to a nonresidential condominium, the
declaration may also require, subject to NRS 116.1112, that:
(a) Notwithstanding NRS 116.3105, any management, maintenance
operations or employment contract, lease of recreational or parking areas or
facilities and any other contract or lease between the association and a
declarant or an affiliate of a declarant continues in force after the declarant
turns over control of the association; and~~

~~(b) Notwithstanding NRS 116.1104 and subsection 3 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 116.31031 is hereby amended to read as follows:~~

~~116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or an invitee of a unit's owner or a tenant violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:~~

~~(a) Prohibit, for a reasonable time, the unit's owner or the tenant or the invitee of the unit's owner or the tenant from:~~

~~(1) Voting on matters related to the common interest community;~~

~~(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or the invitee of the unit's owner or the tenant from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking;~~

~~(b) Impose a fine against the unit's owner or the tenant or the invitee of the unit's owner or the tenant for each violation, except that:~~

~~(1) A fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305; and~~

~~(2) A fine may not be imposed against a unit's owner or a tenant or invitee of a unit's owner or a tenant for a violation of the governing documents which involves a vehicle and which is committed by a person who is delivering goods to, or performing services for, the unit's owner or tenant or invitee of the unit's owner or the tenant.~~

~~↗ If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed \$100 for each violation or a total amount of \$1,000, whichever is less. The limitations on the amount of the fine do not apply to any charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.~~

~~2. The executive board may not impose a fine pursuant to subsection 1 against a unit's owner for a violation of any provision of the governing documents of an association committed by an invitee of the unit's owner or the tenant unless the unit's owner:~~

~~(a) Participated in or authorized the violation;~~

~~(b) Had prior notice of the violation; or~~

~~—(c) Had an opportunity to stop the violation and failed to do so.~~

~~—3. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.~~

~~—4. The executive board may not impose a fine pursuant to subsection 1 unless:~~

~~—(a) Not less than 30 days before the alleged violation, the unit's owner and, if different, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the alleged violation; and~~

~~—(b) Within a reasonable time after the discovery of the alleged violation, the unit's owner and, if different, the person against whom the fine will be imposed has been provided with:~~

~~—(1) Written notice:~~

~~—(I) Specifying in detail the alleged violation, the proposed action to cure the alleged violation, the amount of the fine, and the date, time and location for a hearing on the alleged violation; and~~

~~—(II) Providing a clear and detailed photograph of the alleged violation, if the alleged violation relates to the physical condition of the unit or the grounds of the unit or an act or a failure to act of which it is possible to obtain a photograph; and~~

~~—(2) A reasonable opportunity to cure the alleged violation or to contest the alleged violation at the hearing.~~

~~[For the purposes of this subsection, a unit's owner shall not be deemed to have received written notice unless written notice is mailed to the address of the unit and, if different, to a mailing address specified by the unit's owner.]~~

~~—5. The written notice required pursuant to paragraph (b) of subsection 4 must:~~

~~—(a) Include, without limitation:~~

~~—(1) The date, time and location of the hearing concerning the alleged violation;~~

~~—(2) The telephone number and mailing address of a person that the unit's owner and, if different, the person against whom the fine will be imposed may contact to request a continuance or change of the date or time of the hearing;~~

~~—(3) A description, in plain language, of the alleged violation, including, without limitation, the text of the provision of the governing documents that was allegedly violated and, if possible, a clear and detailed photograph of the alleged violation;~~

~~—(4) The proposed action to cure the alleged violation and a reasonable time, considering the magnitude and seriousness of alleged violation, in which the alleged violation must be cured;~~

~~— (5) The amount of the fine;~~

~~— (6) A statement advising the unit's owner and, if different, the person against whom the fine will be imposed of the provisions of subsections 9 to 14, inclusive, and that a party who is aggrieved by a decision of the executive board or a hearing committee may submit the action to mediation or for referral to a program of dispute resolution by filing a written claim with the Division pursuant to NRS 38.320 or by filing an affidavit with the Division pursuant to NRS 116.760; and~~

~~— (7) The names of the members of the executive board or hearing committee who will conduct the hearing;~~

~~— (b) Be mailed to the unit's owner and, if different, the person against whom the fine will be imposed at least 30 days before the hearing by certified mail, return receipt requested, to the address of the unit and, if different, the:~~

~~— (1) Mailing address specified by the unit's owner or, if none, the address to which the annual assessment is mailed; and~~

~~— (2) Last known address of the unit's owner or, if different, the person against whom the fine will be imposed;~~

~~— 6. The executive board may not impose a fine pursuant to subsection 1 if the violation is cured within the time provided pursuant to subparagraph (4) of paragraph (a) of subsection 5.~~

~~— 7. The executive board must schedule the date, time and location for the hearing on the alleged violation so that the unit's owner and, if different, the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.~~

~~— [6.] 8. The executive board must hold a hearing before it may impose the fine, unless the fine is paid before the hearing or unless the unit's owner and, if different, the person against whom the fine will be imposed:~~

~~— (a) Executes a written waiver of the right to the hearing; or~~

~~— (b) Fails to appear at the hearing after being provided with proper notice of the hearing;~~

~~— [7.] 9. Not less than 5 days before a hearing on an alleged violation conducted pursuant to this section:~~

~~— (a) Each party must provide to each other party:~~

~~— (1) A copy of all documents that are reasonably available to the party that the party reasonably anticipates will be used in support of his or her position; and~~

~~— (2) A list of witnesses whom the party intends to call at the time of the hearing, except that if the unit's owner or, if different, the person against whom the fine will be imposed intends to testify at the hearing, the list of witnesses is not required to include that person. The list of witnesses must include for each witness:~~

~~— (I) The name of the witness;~~

~~— (II) The employer of the witness and the title of the witness; and~~

~~— (III) A brief summary of the expected testimony of the witness.~~

~~—(b) A unit's owner or, if different, a person against whom the fine will be imposed may request in writing that an open hearing be conducted pursuant to subsection 4 of NRS 116.31085.~~

~~—10. A unit's owner or, if different, the person against whom the fine will be imposed may challenge for bias, conflict of interest or any grounds prescribed in this chapter or the governing documents any member of the executive board or hearing committee who is scheduled to conduct the hearing. A challenge must be filed with the executive board not less than 5 days before the date of the hearing or not more than 3 days after receiving notice of the addition or replacement of a member of the hearing panel, whichever is later. The executive board:~~

~~—(a) Shall grant one challenge as a matter of right; and~~

~~—(b) May grant or deny any additional challenge after considering the merits of the challenge.~~

~~—11. The executive board or hearing committee:~~

~~—(a) Shall grant one continuance of a hearing of not more than 30 days at the request of the respondent; and~~

~~—(b) May grant any additional continuances to which all parties agree.~~

~~—12. At a hearing held pursuant to this section:~~

~~—(a) The unit's owner and, if different, the person against whom the fine will be imposed may be represented by any person of his or her choosing.~~

~~—(b) Each party may present witnesses and may cross examine any opposing witness. Except as otherwise provided in paragraph (c), a witness may not be present during the testimony of any other witness without the consent of all parties.~~

~~—(c) The respondent may be present for the entirety of the hearing and may testify in his or her own behalf and present such other evidence as may be beneficial to his or her cause.~~

~~—(d) Each party is entitled to present a closing statement.~~

~~—(e) The executive board or hearing committee shall arrive at a decision by a majority vote of the members of the executive board or hearing committee who conduct the hearing not more than 7 days after the close of the hearing. Notice of the decision must be mailed to all parties not more than 10 days after the vote and must include a statement advising the parties that a party who is aggrieved by a decision of the executive board or a hearing committee may submit the action to mediation or for referral to a program of dispute resolution by filing a written claim with the Division pursuant to NRS 38.320 or by filing an affidavit with the Division pursuant to NRS 116.760.~~

~~—(f) A party may not be held liable for the fees and costs of any other party.~~

~~—(g) Any party may make an audio recording or video recording of the hearing at his or her own expense.~~

~~—13. A party may request a transcript of a hearing held pursuant to this section at his or her own expense. If both parties request a transcript of a hearing, the parties shall share the costs of producing the transcript.~~

~~14. A party who requires assistance in interpreting the English language during a hearing on an alleged violation conducted pursuant to NRS 116.31031 may arrange for an interpreter to attend the hearing at the expense of the party who requests the interpreter.~~

~~15. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7 day period or portion thereof that the violation is not cured. Any additional fine may be imposed without providing the opportunity to cure the violation and without the notice and an opportunity to be heard required by paragraph (b) of subsection 4.~~

~~[8.] 16. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on alleged violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.~~

~~[9.] 17. A member of the executive board shall not participate in any hearing or cast any vote relating to a fine imposed pursuant to subsection 1 if the member has not paid all assessments which are due to the association by the member. If a member of the executive board:~~

~~—(a) Participates in a hearing in violation of this subsection, any action taken at the hearing is void;~~

~~—(b) Casts a vote in violation of this subsection, the vote is void.~~

~~[10.] 18. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.~~

~~[11.] 19. Any past due fine must not bear interest, but may include any costs incurred by the association during a civil action to enforce the payment of the past due fine.~~

~~[12.] 20. If requested by a person upon whom a fine was imposed, not later than 60 days after receiving any payment of a fine, an association shall provide to the person upon whom the fine was imposed a statement of the remaining balance owed.] (Deleted by amendment.)~~

Sec. 3. [NRS 116.310312 is hereby amended to read as follows:

~~116.310312 1. A person who holds a security interest in a unit must provide the association with the person's contact information as soon as reasonably practicable, but not later than 30 days after the person:~~

~~—(a) Files an action for recovery of a debt or enforcement of any right secured by the unit pursuant to NRS 40.430; or~~

~~—(b) Records or has recorded on his or her behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080.~~

~~2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may, but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:~~

~~— (a) Maintain the exterior of the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal;~~

~~— (b) Remove or abate a public nuisance on the exterior of the unit which:~~

~~— (1) Is visible from any common area of the community or public streets;~~

~~— (2) Threatens the health or safety of the residents of the common interest community;~~

~~— (3) Results in blighting or deterioration of the unit or surrounding area; and~~

~~— (4) Adversely affects the use and enjoyment of nearby units.~~

~~3. If a unit is vacant and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association, including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance as described in subsection 2 if the unit's owner refuses or fails to do so.~~

~~4. The association may order that the costs of any maintenance or abatement conducted pursuant to subsection 2 or 3, including, without limitation, reasonable inspection fees, notification and collection costs and interest, be charged against the unit. The association shall keep a record of such costs and interest charged against the unit and has a lien on the unit for any unpaid amount of the charges. [The lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.]~~

~~5. A lien described in subsection 4 bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges, including all interest due, are paid.~~

~~6. Except as otherwise provided in this subsection, a lien described in subsection 4 is prior and superior to all liens, claims, encumbrances and titles other than the liens described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116. If the federal regulations of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior and superior to other security interests shall be determined in accordance with those federal regulations. Notwithstanding the federal regulations, the period of priority of the lien must not be less than the 6 months immediately preceding the institution of an action to enforce the lien.~~

~~7. A person who purchases or acquires a unit at a foreclosure sale pursuant to NRS 40.430 or a trustee's sale pursuant to NRS 107.080 is bound by the governing documents of the association and shall maintain the exterior of the unit in accordance with the governing documents of the association. Such a unit may only be removed from a common interest community in accordance with the governing documents pursuant to this chapter.~~

~~8. Notwithstanding any other provision of law, an association, its directors or members of the executive board, employees, agents or community manager who enter the grounds of a unit pursuant to this section are not liable for trespass.~~

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

~~(a) "Exterior of the unit" includes, without limitation, all landscaping outside of a unit and the exterior of all property exclusively owned by the unit owner.~~

~~(b) "Vacant" means a unit:~~

~~(1) Which reasonably appears to be unoccupied;~~

~~(2) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents the association; and~~

~~(3) On which the owner has failed to pay assessments for more than 60 days.~~ **(Deleted by amendment.)**

Sec. 4. ~~NRS 116.3106 is hereby amended to read as follows:~~

~~116.3106 1. The bylaws of the association must:~~

~~(a) Provide the number of members of the executive board and the titles of the officers of the association;~~

~~(b) Provide for election by the executive board of a president, treasurer, secretary and any other officers of the association the bylaws specify;~~

~~(c) Specify the qualifications, powers and duties, terms of office and manner of electing and removing officers of the association and members of the executive board and filling vacancies;~~

~~(d) Specify the powers the executive board or the officers of the association may delegate to other persons or to a community manager;~~

~~(e) Specify the officers who may prepare, execute, certify and record amendments to the declaration on behalf of the association;~~

~~(f) Provide procedural rules for conducting meetings of the association;~~

~~(g) Specify a method for the units' owners to amend the bylaws;~~

~~(h) Provide procedural rules for conducting elections;~~

~~(i) Contain any provision necessary to satisfy requirements in this chapter or the declaration concerning meetings, voting, quorums and other activities of the association; and~~

~~(j) Provide for any matter required by law of this State other than this chapter to appear in the bylaws of organizations of the same type as the association.~~

~~2. Except as otherwise provided in this chapter or the declaration, the bylaws may provide for any other necessary or appropriate matters, including, without limitation, matters that could be adopted as rules.~~

~~3. The bylaws may provide that a member of the executive board may receive a per diem for each day or portion of a day of attendance at a meeting of the executive board or while engaged in the business of the executive board, not to exceed \$100 per day, only if, at a meeting of the units' owners held pursuant to NRS 116.3108, the number of votes cast in favor of adopting such a provision of the bylaws constitutes:~~

~~(a) At least 35 percent of the units' owners other than the declarant; and~~
~~(b) At least a majority of all votes cast by the units' owners other than the declarant on the question of whether to adopt the provision.~~

~~4. The bylaws must be written in plain English.} (Deleted by amendment.)~~

Sec. 5. ~~{NRS 116.31068 is hereby amended to read as follows:~~

~~116.31068 1. Except as otherwise provided in subsection 3, an association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit's owner designates. Except as otherwise provided in subsection 3, if a unit's owner has not designated a mailing or electronic mail address to which a notice must be delivered, the association may deliver notices by:~~

~~(a) Hand delivery to each unit's owner;~~

~~(b) Hand delivery, United States mail, postage paid, or commercially reasonable delivery service to the mailing address of each unit;~~

~~(c) Electronic means, if the unit's owner has given the association an electronic mail address; or~~

~~(d) Any other method reasonably calculated to provide notice to the unit's owner.~~

~~2. The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.~~

~~3. The provisions of this section do not apply:~~

~~(a) To a notice required to be given pursuant to NRS 116.3116 ; [to 116.31168, inclusive]; or~~

~~(b) If any other provision of this chapter specifies the manner in which a notice must be given by an association.} (Deleted by amendment.)~~

Sec. 6. ~~{NRS 116.3115 is hereby amended to read as follows:~~

~~116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.~~

~~2. Except for assessments under subsections 4 to 7, inclusive, or as otherwise provided in this chapter:~~

~~—(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.~~

~~—(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore are necessary. Notwithstanding any provision of the governing documents to the contrary, to establish adequate reserves pursuant to this paragraph, including, without limitation, to establish or carry out a funding plan, the executive board may, without seeking or obtaining the approval of the units' owners, impose any necessary and reasonable assessments against the units in the common interest community. Any such assessments imposed by the executive board must be based on the study of the reserves of the association conducted pursuant to NRS 116.31152.~~

~~—3. Any assessment for common expenses or installment thereof that is 60 days or more past due bears interest at a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.~~

~~—4. Except as otherwise provided in the governing documents:~~

~~—(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;~~

~~—(b) Any common expense benefiting fewer than all of the units or their owners may be assessed exclusively against the units or units' owners benefited; and~~

~~—(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.~~

~~5. Assessments to pay a judgment against the association may be made only against the units in the common interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.~~

~~6. If damage to a unit or other part of the common interest community, or if any other common expense is caused by the willful misconduct or gross negligence of any unit's owner, tenant or invitee of a unit's owner or tenant, the association may assess that expense exclusively against his or her unit, even if the association maintains insurance with respect to that damage or common expense, unless the damage or other common expense is caused by a vehicle and is committed by a person who is delivering goods to, or performing services for, the unit's owner, tenant or invitee of the unit's owner or tenant.~~

~~7. The association of a common interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.~~

~~8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.~~

~~9. **Notwithstanding any provision of law or the governing documents to the contrary, an association shall not make a capital improvement that costs over \$5,000 unless the capital improvement is approved by the units' owners constituting at least 25 percent of the total number of voting members of the association.**~~

~~10. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.~~ **(Deleted by amendment.)**

Sec. 7. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and

perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➡ The lien is also prior to all security interests described in paragraph (b) to the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. **Except as otherwise provided in this subsection, any priority accorded to the association's lien under this section is a priority in right and not merely a priority in payment from the proceeds of the sale of the unit by a competing lienholder or encumbrancer. The foreclosure by sale of the association's lien does not extinguish the rights of the holder of:**

(a) A first security interest described in paragraph (b) of subsection 2; or

(b) A second mortgage or deed of trust on the unit recorded before the date on which the assessment sought to be enforced became delinquent.

4. The holder of the security interest described in paragraph (b) of subsection 2 or the holder's authorized agent may establish an escrow account, loan trust account or other impound account for advance contributions for the payment of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 if the unit's owner and the holder of that security interest consent to the establishment of such an account. If such an account is established, payments from the account for assessments for common expenses must be made in accordance with the same due dates as apply to payments of such assessments by a unit's owner.

~~{4.}~~ 5. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

~~{5.}~~ 6. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

~~{6.}~~ 7. A lien for unpaid assessments is extinguished unless ~~judicial~~ proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

~~{7.}~~ 8. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

~~{8.}~~ 9. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~{9.}~~ 10. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, ~~{40.430 to 40.463,}~~ inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

~~{10.}~~ 11. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, ~~{40.430 to 40.463,}~~ inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, ~~{40.430 to 40.463,}~~ inclusive.

~~{11. The association's lien under this section may be foreclosed pursuant to NRS ~~40.430 to 40.463, inclusive, in like manner as a mortgage or other lien on real property.~~~~

12. In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.

Sec. 7.5. NRS 116.31166 is hereby amended to read as follows:

116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:

(a) Default, the mailing of the notice of delinquent assessment, and the recording of the notice of default and election to sell;

(b) The elapsing of the 90 days; and

- (c) The giving of notice of sale,
 ➤ are conclusive proof of the matters recited.

2. Such a deed containing those recitals is conclusive against the unit's former owner, his or her heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or right of redemption, subject to any security interest described in paragraph (a) or (b) of subsection 3 of NRS 116.3116.

~~Sec. 8. NRS 116.4105 is hereby amended to read as follows:~~
~~116.4105 If the declaration provides that ownership or occupancy of any units, is or may be in time shares, the public offering statement shall disclose, in addition to the information required by NRS 116.4103 and 116.41035:~~
~~1. The number and identity of units in which time shares may be created;~~
~~2. The total number of time shares that may be created;~~
~~3. The minimum duration of any time shares that may be created; and~~
~~4. The extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in NRS 116.3116. [and 116.31162.]] (Deleted by amendment.)~~

~~Sec. 9. NRS 116.745 is hereby amended to read as follows:~~
~~116.745 As used in NRS 116.745 to 116.795, inclusive, unless the context otherwise requires [, "violation"]:~~
~~1. "Breach" means a breach of the governing documents.~~
~~2. "Violation" means a violation of:~~
~~[1.] (a) Any provision of this chapter except NRS 116.31184;~~
~~[2.] (b) Any regulation adopted pursuant to this chapter; or~~
~~[3.] (c) Any order of the Commission or a hearing panel.] (Deleted by amendment.)~~

~~Sec. 10. NRS 116.760 is hereby amended to read as follows:~~
~~116.760 1. Except as otherwise provided in this section, a person who is aggrieved by an alleged violation or breach may, not later than 1 year after the person discovers or reasonably should have discovered the alleged violation [,] or breach file with the Division a written affidavit that sets forth the facts constituting the alleged violation [,] or breach. The affidavit may allege any actual damages suffered by the aggrieved person as a result of the alleged violation [,] or breach.~~
~~2. An aggrieved person may not file such an affidavit unless the aggrieved person has provided the respondent by certified mail, return receipt requested, with written notice of the alleged violation or breach set forth in the affidavit. The notice must:~~
~~(a) Be mailed to the respondent's last known address.~~
~~(b) Specify, in reasonable detail, the alleged violation [,] or breach, any actual damages suffered by the aggrieved person as a result of the alleged~~

violation ~~[,] or breach~~, and any corrective action proposed by the aggrieved person.

~~2. A written affidavit filed with the Division pursuant to this section must be:~~

~~(a) On a form prescribed by the Division;~~

~~(b) Accompanied by evidence that:~~

~~(1) The respondent has been given a reasonable opportunity after receiving the written notice to ~~[correct]~~ resolve the alleged violation ~~[,] or breach~~; and~~

~~(2) Reasonable efforts to resolve the alleged violation ~~or breach~~ have failed.~~

~~4. The Commission or a hearing panel may impose an administrative fine of not more than \$1,000 against any person who knowingly files a false or fraudulent affidavit with the Division.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 116.765 is hereby amended to read as follows:~~

~~116.765 1. Upon receipt of an affidavit which complies with the provisions of NRS 116.760 and which alleges a breach, the Division shall schedule a hearing on the complaint before the Commission or a hearing panel.~~

~~2. Upon receipt of an affidavit [that] which complies with the provisions of NRS 116.760 [,] and which alleges a violation, the Division shall refer the affidavit to the Ombudsman.~~

~~[2.] 3. The Ombudsman shall give such guidance to the parties as the Ombudsman deems necessary to assist the parties to resolve the alleged violation.~~

~~[3.] 4. If the parties are unable to resolve the alleged violation with the assistance of the Ombudsman, the Ombudsman shall provide to the Division a report concerning the alleged violation and any information collected by the Ombudsman during his or her efforts to assist the parties to resolve the alleged violation.~~

~~[4.] 5. Upon receipt of the report from the Ombudsman, the Division shall conduct an investigation to determine whether good cause exists to proceed with a hearing on the alleged violation.~~

~~[5.] 6. If, after investigating the alleged violation, the Division determines that the allegations in the affidavit are not frivolous, false or fraudulent and that good cause exists to proceed with a hearing on the alleged violation, the Administrator shall file a formal complaint with the Commission and schedule a hearing on the complaint before the Commission or a hearing panel.] (Deleted by amendment.)~~

Sec. 12. ~~[NRS 116.770 is hereby amended to read as follows:~~

~~116.770 1. Except as otherwise provided in subsection 2, if the Administrator files a formal complaint with the Commission [,] or if a hearing concerning a breach is scheduled, the Commission or a hearing panel shall hold a hearing on the complaint or alleged breach not later than 90 days after~~

the date that the complaint ~~alleging a violation or affidavit alleging a breach~~ is filed.

~~2. The Commission or the hearing panel may continue the hearing upon its own motion or upon the written request of a party to the complaint [.] or affidavit alleging a breach, for good cause shown, including, without limitation, the existence of proceedings for mediation or arbitration or a civil action involving the facts that constitute the basis of the complaint [.] or affidavit alleging a breach.~~

~~3. The Division shall give the respondent written notice of the date, time and place of the hearing on the complaint or alleged breach at least 30 days before the date of the hearing. The notice must be:~~

~~— (a) Delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address.~~

~~— (b) Accompanied by:~~

~~— (1) A copy of the complaint; and~~

~~— (2) Copies of all communications, reports, affidavits and depositions in the possession of the Division that are relevant to the complaint [.] or alleged breach.~~

~~4. At any hearing on the complaint [.] or alleged breach, the Division or person alleging a breach may not present evidence that was obtained after the notice was given to the respondent pursuant to this section, unless the Division or person alleging a breach proves to the satisfaction of the Commission or the hearing panel that:~~

~~— (a) The evidence was not available, after diligent investigation by the Division [.] or person alleging a breach, before such notice was given to the respondent; and~~

~~— (b) The evidence was given or communicated to the respondent immediately after it was obtained by the Division [.] or person alleging a breach.~~

~~5. The respondent must file an answer not later than 30 days after the date that notice of the complaint or affidavit alleging a breach is delivered or mailed by the Division. The answer must:~~

~~— (a) Contain an admission or a denial of the allegations contained in the complaint or affidavit and any defenses upon which the respondent will rely; and~~

~~— (b) Be delivered personally to the Division or mailed to the Division by certified mail, return receipt requested.~~

~~6. If the respondent does not file an answer within the time required by subsection 5, the Division or person alleging a breach may, after giving the respondent written notice of the default, request the Commission or the hearing panel to enter a finding of default against the respondent. The notice of the default must be delivered personally to the respondent or mailed to the respondent by certified mail, return receipt requested, to his or her last known address. } (Deleted by amendment.)~~

Sec. 13. [NRS 116.775 is hereby amended to read as follows:

~~116.775 Any party to the complaint **or affidavit alleging a breach** may be represented by an attorney at any hearing on the complaint [.] **or affidavit.**~~
(Deleted by amendment.)

Sec. 14. ~~[NRS 116.780 is hereby amended to read as follows:~~

~~116.780 1. After conducting its hearings on the complaint [.] **or affidavit alleging a breach**, the Commission or the hearing panel shall render a final decision on the merits of the complaint **or allegation of a breach** not later than 20 days after the date of the final hearing.~~

~~2. The Commission or the hearing panel shall notify all parties to the complaint **or affidavit** of its decision in writing by certified mail, return receipt requested, not later than 60 days after the date of the final hearing. The written decision must include findings of fact and conclusions of law. **(Deleted by amendment.)**~~

Sec. 15. ~~[NRS 116.785 is hereby amended to read as follows:~~

~~116.785 1. If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation [.] **or breach**, the Commission or the hearing panel may take any or all of the following actions:~~

~~(a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation [.] **or the conduct that resulted in the breach.**~~

~~(b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation [.] **or breach.**~~

~~(c) Impose an administrative fine of not more than \$1,000 for each violation [.] **or breach.**~~

~~2. If the respondent is a member of an executive board or an officer of an association, the Commission or the hearing panel may order the respondent removed from his or her office or position if the Commission or the hearing panel, after notice and hearing, finds that:~~

~~(a) The respondent has knowingly and willfully committed a violation [.] **or breach**; and~~

~~(b) The removal is in the best interest of the association.~~

~~3. If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than \$1,000 for each violation.~~

~~4. If the Commission or the hearing panel takes any disciplinary action pursuant to this section, the Commission or the hearing panel may order the respondent to pay the costs of the proceedings incurred by the Division, including, without limitation, the cost of the investigation and reasonable attorney's fees.~~

~~5. Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation [.] **or breach**, if the respondent is a member of an executive board or an officer of an association:~~

~~—(a) The association is liable for all fines and costs imposed against the respondent pursuant to this section; and~~

~~—(b) The respondent may not be held personally liable for those fines and costs.~~ **(Deleted by amendment.)**

Sec. 16. ~~[NRS 116.790 is hereby amended to read as follows:~~

~~116.790 1. If the Commission or a hearing panel, after notice and hearing, finds that the executive board or any person acting on behalf of the association has committed a violation [,] or a breach, the Commission or the hearing panel may take any or all of the following actions:~~

~~—(a) Order an audit of the association, at the expense of the association.~~

~~—(b) Require the executive board to hire a community manager who holds a certificate.~~

~~2. The Commission, or the Division with the approval of the Commission, may apply to a court of competent jurisdiction for the appointment of a receiver for an association if, after notice and a hearing, the Commission or a hearing officer finds that any of the following violations occurred:~~

~~—(a) The executive board, or any member thereof, has been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;~~

~~—(b) The executive board, or any member thereof, has been guilty of misfeasance, malfeasance or nonfeasance; or~~

~~—(c) The assets of the association are in danger of waste or loss through attachment, foreclosure, litigation or otherwise.~~

~~3. In any application for the appointment of a receiver pursuant to this section, notice of a temporary appointment of a receiver may be given to the association alone, by process as in the case of an application for a temporary restraining order or injunction. The hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.~~

~~4. The court may, if good cause exists, appoint one or more receivers pursuant to this section to carry out the business of the association. The members of the executive board who have not been guilty of negligence or active breach of duty must be preferred in making the appointment.~~

~~5. The powers of any receiver appointed pursuant to this section may be continued as long as the court deems necessary and proper. At any time, for sufficient cause, the court may order the receivership terminated.~~

~~6. Any receiver appointed pursuant to this section has, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether or not the association is insolvent. Such powers include, without limitation, the powers to:~~

~~—(a) Take charge of the estate and effects of the association;~~

~~—(b) Appoint an agent or agents;~~

~~—(c) Collect any debts and property due and belonging to the association and prosecute and defend, in the name of the association, or otherwise, any civil action as may be necessary or proper for the purposes of collecting debts and property;~~

~~—(d) Perform any other act in accordance with the governing documents of the association and this chapter that may be necessary for the association to carry out its obligations; and~~

~~—(e) By injunction, restrain the association from exercising any of its powers or doing business in any way except by and through a receiver appointed by the court.}] (Deleted by amendment.)~~

Sec. 17. ~~[NRS 116.795 is hereby amended to read as follows:~~

~~116.795 1. If the Commission or the Division has reasonable cause to believe, based on evidence satisfactory to it, that any person **breached or is about to breach any provision of the governing documents** or violated or is about to violate any provision of this chapter, any regulation adopted pursuant thereto or any order, decision, demand or requirement of the Commission or Division or a hearing panel, the Commission or the Division may bring an action in the district court for the county in which the person resides or, if the person does not reside in this State, in any court of competent jurisdiction within or outside this State, to restrain or enjoin that person from engaging in or continuing to commit the **breaches or** violations or from doing any act in furtherance of the **breaches or** violations.~~

~~2. The action must be brought in the name of the State of Nevada. If the action is brought in a court of this State, an order or judgment may be entered, when proper, issuing a temporary restraining order, preliminary injunction or final injunction. A temporary restraining order or preliminary injunction must not be issued without at least 5 days' notice to the opposite party.~~

~~3. The court may issue the temporary restraining order, preliminary injunction or final injunction without:~~

~~—(a) Proof of actual damages sustained by any person;~~

~~—(b) The filing of any bond.}] (Deleted by amendment.)~~

Sec. 18. ~~[NRS 278A.170 is hereby amended to read as follows:~~

~~278A.170 The procedures for enforcing payment of an assessment for the maintenance of common open space provided in NRS 116.3116 [to 116.31168, inclusive,] are also available to any organization for the ownership and maintenance of common open space established other than under this chapter or chapter 116 of NRS and entitled to receive payments from owners of property for such maintenance under a recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude which provides that any reasonable and ratable assessment thereon for the organization's costs of maintaining the common open space constitutes a lien or encumbrance upon the property.}] (Deleted by amendment.)~~

Sec. 19. ~~[NRS 649.020 is hereby amended to read as follows:~~

~~649.020 1. "Collection agency" means all persons engaging, directly or indirectly, and as a primary or a secondary object, business or pursuit, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to another.~~

~~2. "Collection agency" does not include any of the following unless they are conducting collection agencies:~~

~~—(a) Individuals regularly employed on a regular wage or salary, in the capacity of credit men or in other similar capacity upon the staff of employees of any person not engaged in the business of a collection agency or making or attempting to make collections as an incident to the usual practices of their primary business or profession.~~

~~—(b) Banks.~~

~~—(c) Nonprofit cooperative associations.~~

~~—(d) Unit owners' associations and the board members, officers, employees and units' owners of those associations when acting under the authority of and in accordance with chapter 116 or 116B of NRS and the governing documents of the association, except for those community managers included within the term "collection agency" pursuant to subsection 3.~~

~~—(e) Abstract companies doing an escrow business.~~

~~—(f) Duly licensed real estate brokers, except for those real estate brokers who are community managers included within the term "collection agency" pursuant to subsection 3.~~

~~—(g) Attorneys and counselors at law licensed to practice in this State, so long as they are retained by their clients to collect or to solicit or obtain payment of such clients' claims in the usual course of the practice of their profession.~~

~~3. "Collection agency":~~

~~—(a) Includes a community manager while engaged in the management of a common interest community or the management of an association of a condominium hotel if the community manager, or any employee, agent or affiliate of the community manager, performs or offers to perform any act associated with the foreclosure or enforcement of a lien pursuant to NRS [116.31162 to 116.31168, inclusive,] **116.3116 or the foreclosure of a lien pursuant to NRS 116B.635 to 116B.660, inclusive; and**~~

~~—(b) Does not include any other community manager while engaged in the management of a common interest community or the management of an association of a condominium hotel.~~

~~4. As used in this section:~~

~~—(a) "Community manager" has the meaning ascribed to it in NRS 116.023 or 116B.050.~~

~~—(b) "Unit owners' association" has the meaning ascribed to it in NRS 116.011 or 116B.030.] **(Deleted by amendment.)**~~

Sec. 20. ~~[1. The amendatory provisions of sections 1, 3, 5, 7, 8, 18, 19 and 21 apply to the foreclosure or enforcement of the association's lien unless the association has foreclosed its lien by sale on or before September 30, 2015.~~

~~2. The provisions of NRS 116.3115, as amended by section 6 of this act, apply to a capital improvement unless a contract for the construction of the capital improvement has been entered into on or before September 30, 2015.] **(Deleted by amendment.)**~~

Sec. 21. ~~[NRS 116.31162, 116.31163, 116.311635, 116.31164, 116.31166 and 116.31168 are hereby repealed.] **(Deleted by amendment.)**~~

f

~~LEADLINES OF REPEALED SECTIONS~~

~~116.31162 Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.~~

~~116.31163 Foreclosure of liens: Mailing of notice of default and election to sell to certain interested persons.~~

~~116.311635 Foreclosure of liens: Providing notice of time and place of sale; service of notice of sale; contents of notice of sale; proof of service.~~

~~116.31164 Foreclosure of liens: Procedure for conducting sale; purchase of unit by association; execution and delivery of deed; use of proceeds of sale.~~

~~116.31166 Foreclosure of liens: Effect of recitals in deed; purchaser not responsible for proper application of purchase money; title vested in purchaser without equity or right of redemption.~~

~~116.31168 Foreclosure of liens: Requests by interested persons for notice of default and election to sell; right of association to waive default and withdraw notice or proceeding to foreclose.]~~

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 364.

Bill read second time.

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

Amendment No. 427.

~~{CONTAINS UNFUNDED MANDATE (§ 4)~~

~~(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)}~~

AN ACT relating to business; declaring certain records to be confidential; revising provisions governing the state business portal; revising provisions governing applications for certain authorizations to conduct a business in this State issued by state and local agencies and health districts; requiring the Secretary of State to assign a unique business identification number to certain entities and persons under certain circumstances; revising provisions governing the issuance of certain licenses by the Office of the Secretary of State; removing the prohibition against a county clerk refusing to accept for filing certain business certificates in certain circumstances; revising provisions governing the disclosure of certain information by the Employment Security Division of the Department of Employment, Training and Rehabilitation; repealing certain provisions relating to the collection of information from businesses seeking certain authorizations to conduct business in this State; ~~[repealing certain provisions relating to the issuance of certain licenses by incorporated cities and counties;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Secretary of State is required to establish the state business portal to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through the state business portal. (NRS 75A.100) **Section 4** of this bill requires the Secretary of State to: (1) establish common business registration information that ~~is~~ **may be** used by state and local agencies and health districts to conduct necessary transactions with businesses in this State; and (2) cause the state business portal to ~~provide~~ **exchange the** common business registration information ~~to~~ **among certain** state and local agencies and health districts that conduct necessary transactions with businesses in this State. **Section 4** ~~furthur requires that~~ **authorizes** state and local agencies and health districts ~~to~~ **to** ~~the extent practicable~~ (1) integrate their electronic applications processes into the state business portal; (2) use the state business portal to accept and disseminate common business registration information that is needed by the state or local agency or health district to issue a license, certificate, registration, permit or similar type of authorization to conduct a business in this State or to engage in an occupation or profession in this State; (3) make available on the Internet applications for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State or to engage in an occupation or profession in this State and to integrate such applications into the state business portal; and (4) ~~meet~~ **perform** certain other ~~requirements~~ **actions** related to participation in the state business portal. **Section 4** also specifies that a state or local agency or health district is not required to disseminate or release information if such action would result in the state or local agency or health district violating any provision of state or federal law relating to the confidentiality of information. **Section 3** of this bill deems that the records and files collected as common business registration information **by the Secretary of State** are confidential and privileged unless an exception applies.

Section 7 of this bill requires the Secretary of State to assign a unique business identification number to each business entity organized in this State and to each person who is issued a state business license or who claims to be excluded or exempt from the requirement to obtain a state business license. Under **section 4**: (1) the Secretary of State must cause the state business portal to interface with the system used by the Secretary of State to assign business identification numbers; and (2) state and local agencies and health districts that issue licenses, certificates, registration, permits or similar types of authorization to conduct a business in this State or to engage in an occupation or profession in this State ~~must~~ **may** require an applicant for such a license, certificate, registration or permit to include the applicant's business identification number on the application.

Existing law also requires an applicant for a city or county business license to sign an affidavit **or electronically submit an attestation** affirming that the business ~~maintains~~ **satisfies** certain insurance requirements.

(NRS 244.33505, 268.0955) ~~[Section 15 of this bill repeals this requirement and section 6 of this bill instead requires an applicant for a state business license to include with his or her application a signed affidavit or an attestation to affirm that the business maintains certain insurance requirements. Section 6 further requires that certain information regarding industrial insurance be provided through the state business portal.] Sections 9.5 and 10.5 of this bill provide that if an applicant submits such an attestation electronically via the state business portal, access to certain information regarding industrial insurance must be provided through the state business portal.~~

Existing law requires certain applicants for the issuance or renewal of certain licenses, certificates or permits by a county, city or town to submit a statement indicating whether the applicant is subject to a court order for the support of a child and whether he or she is in compliance with that order or a plan for the repayment of the money owed pursuant to the order. (NRS 244.33506, 266.358, 266.368, 269.171) **Section 15** repeals this requirement and ~~section 6~~ **Section 5.3** of this bill instead requires certain applicants for the issuance or renewal of a state business license to submit such statement with the application for the issuance or renewal of a state business license. **Section 5.7 of this bill requires the Secretary of State to suspend the state business license of a sole proprietor if the Secretary of State receives a copy of a court order providing for the suspension of the professional and occupational licenses issued to the sole proprietor because the sole proprietor has not complied with certain child support requirements and the sole proprietor does not comply with certain requirements within 30 days.**

Section 11 of this bill removes the provision from existing law which prohibits a county clerk, in certain circumstances, from refusing to accept for filing a certificate or renewal certificate concerning persons doing business in this State under an assumed or fictitious name that is filed by a foreign artificial person or persons. **Section 12** of this bill authorizes the Employment Security Division of the Department of Employment, Training and Rehabilitation to make certain information available to the Secretary of State for certain purposes related to operating and maintaining the state business portal.

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

Section 1. Chapter 75A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, “health district” means a health district created pursuant to NRS 439.362 or 439.370.*

Sec. 3. 1. *Except as otherwise provided in subsection 2 and NRS 239.0115, the records and files collected by the Secretary of State ~~from a state or local agency or health district~~ pursuant to paragraph (f) of subsection 2 of NRS 75A.100 are confidential and privileged. The Secretary of State ~~and any employee of the Secretary of State and any state or local~~*

~~agency or health district, or employee of such an agency or health district, which~~ who is authorized to view or use the information in such records or files:

(a) Shall not disclose any information obtained from such records or files other than specific information contained in the record or file that is deemed a public record; and

(b) May not be required to produce any of the records, files and information for the inspection of any person or governmental entity or for use in any action or proceeding.

2. The records and files collected pursuant to paragraph (f) of subsection 2 of NRS 75A.100 are not confidential and privileged in the following cases:

(a) Testimony by the Secretary of State ~~or any employee of the Secretary of State, or a member or employee of any state or local agency or health district,~~ and the production of records, files and information on behalf of the Secretary of State ~~, any state or local agency or health district,~~ or a person in any action or proceeding before the Secretary of State ~~, any state or local agency or health district,~~ or a court in this State if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his or her authorized representative of a copy of any document filed by the person pursuant to this chapter.

(c) Publication by a governmental agency of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Secretary of State ~~, any state or local agency, health district,~~ or a federal ~~governmental~~ agency in accordance with any agreement made and provided for in such cases, or disclosure in confidence to any federal agency that requests the information for use by the agency in a civil or criminal investigation or prosecution.

(e) Disclosure in confidence to the Attorney General or other legal representative of the State or a ~~local or~~ federal agency in connection with an action or proceeding relating to a taxpayer, or to any agency of this or any other state or the Federal Government charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming or which issues licenses, certificates, registrations, permits or similar types of authorization to conduct a business in this State.

(f) Disclosure by the Secretary of State ~~for a state or local agency or health district,~~ for the purpose of collection of a debt, fee or obligation owed to the Secretary of State ~~, for the agency or district.~~

(g) A business that submits information to the state business portal and agrees to a provision authorizing the release of information contained in the records and files of the state business portal for a purpose which must be specified in the provision.

Sec. 4. NRS 75A.100 is hereby amended to read as follows:

75A.100 1. The Secretary of State shall provide for the establishment of a state business portal to facilitate interaction among businesses and governmental agencies in this State by allowing businesses to conduct necessary transactions with governmental agencies in this State through use of the state business portal.

2. The Secretary of State shall:

(a) Establish, through cooperative efforts ~~and~~ **and consultation with representatives of state agencies, local governments, health districts and businesses**, the standards and requirements necessary to design, build and implement the state business portal;

(b) Establish the standards and requirements necessary for a state or local agency to participate in the state business portal;

(c) Authorize a state or local agency to participate in the state business portal if the Secretary of State determines that the agency meets the standards and requirements necessary for such participation ~~and the agency has entered into an agreement for access to the state business portal which is prescribed by~~ **with the Secretary of State;**

(d) Determine the appropriate requirements to be used by businesses and governmental agencies conducting transactions through use of the state business portal;

(e) **Cause the state business portal to interface with the system established by the Secretary of State to assign business identification numbers;**

(f) **For the purpose of coordinating the collection of common information from businesses using the state business portal:**

(1) **Establish common business registration information to be collected from businesses by state and local agencies and health districts which issue licenses, certificates, registrations, permits or similar types of authorization to conduct a business in this State, which collect taxes or fees or which conduct other necessary transactions with businesses in this State; and**

(2) **Cause the state business portal to ~~provide~~ exchange the common business registration information ~~to~~ among state and local agencies and health districts which participate in the state business portal and which use the common business registration information to issue licenses, certificates, registrations, permits or similar types of authorization to conduct a business in this State, to collect taxes or fees or to conduct other necessary transactions with businesses in this State;**

(g) In carrying out the provisions of this section, consult with the Executive Director of the Office of Economic Development to ensure that the activities of the Secretary of State are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053; and

~~and~~ (h) Adopt such regulations and take any appropriate action as necessary to carry out the provisions of this chapter.

3. **Each state ~~for local~~ agency or health district that issues a license, certificate, registration, permit or similar type of authorization to conduct a**

business in this State ~~shall~~ may, to the extent practicable ~~+~~, and each local agency that issues a license, certificate, registration, permit or similar type of authorization to conduct a business in the jurisdiction of the local agency may, as approved by the governing body of the local government:

(a) Make available on its Internet website any of its applications for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State.

(b) Accept the electronic transfer of common business registration information from the state business portal for use in any electronic application for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State or for use in any application processing system.

(c) Integrate with the state business portal any of its applications for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State. As used in this paragraph, "integrate" means to consolidate an electronic application process so that it is capable of collecting and disseminating information to a state or local agency or health district for the processing of the application for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State.

(d) Allow for the acceptance of an electronic signature for a declaration or affirmation under penalty of perjury or as provided for in statute.

(e) Require an applicant for a license, certificate, registration, permit or similar type of authorization to conduct a business in this State to include in the application the applicant's business identification number.

(f) Ensure that the state or local agency or health district, as applicable, is capable of using the state business portal to accept and disseminate to participating state and local agencies and health districts the common business registration information established pursuant to subparagraph (1) of paragraph (f) of subsection 2 which is needed by the state or local agency or health district to issue a license, certificate, registration, permit or similar type of authorization to conduct a business in this State.

(g) Establish and maintain its rules, data and processes relating to businesses in accordance with the agreement entered into by the state or local agency or health district pursuant to paragraph (c) of subsection 2 and any corresponding technical documentation.

4. The provisions of subsection 3 to not require a state or local agency or health district to ~~disseminate~~ :

(a) Disseminate or release information if such action would result in the state or local agency or health district violating any provision of state or federal law relating to the confidentiality of the information.

(b) Upgrade its information technology system or incur significant expense to comply with the provisions of this section.

5. Except as otherwise provided in NRS 239.0115, all records containing technical specifications, processing protocols or programmatic or system

architecture of the state business portal, and any other records containing information the disclosure of which would endanger the security of the state business portal, or proprietary information related to the functions, operations, processes or architecture of the state business portal, are deemed confidential and privileged.

6. As used in this section:

(a) *“Business identification number” means the number assigned by the Secretary of State pursuant to section 7 of this act to an entity organized pursuant to this title or to a person who is issued a state business license or who claims to be excluded or exempt from the requirement to obtain a state business license pursuant to chapter 76 of NRS.*

(b) *“Disseminate” means to distribute in an electronic format that is capable of being accepted by participating state and local agencies and health districts and used by participants as the common business registration information used to issue a license, certificate, registration, permit or similar type of authorization, to collect taxes or fees or to conduct other necessary transactions with businesses in this State.*

Sec. 5. Chapter 76 of NRS is hereby amended by adding ~~to read as follows:~~ thereto the provisions sets forth as sections 5.3 and 5.7 of this act.

Sec. 5.3. 1. *If an applicant for the issuance or renewal of a state business license is required to obtain or renew a license, permit or certificate to practice a profession or occupation pursuant to NRS 244.334, 244.335, 266.355, 268.0887, 268.095 or 269.170, the applicant shall:*

(a) *Include in the application his or her social security number; and*

(b) *Submit to the Secretary of State the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

2. *The Secretary of State shall include the statement required pursuant to subsection 1 in:*

(a) *The application or any other forms that must be submitted for the issuance or renewal of the state business license; or*

(b) *A separate form prescribed by the Secretary of State.*

3. *A state business license may not be issued or renewed by the Secretary of State if the applicant:*

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

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

4. *If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the*

district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Secretary of State shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 5.7. 1. If the Secretary of State receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is conducting business in this State as a sole proprietor, the Secretary of State shall deem the state business license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Secretary of State receives a letter issued to the holder of the state business license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the state business license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Secretary of State shall reinstate a state business license that has been suspended by a district court pursuant to NRS 425.540 if the Secretary of State receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose state business license was suspended stating that the person whose state business license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 6. NRS 76.100 is hereby amended to read as follows:

76.100 1. A person shall not conduct a business in this State unless and until the person obtains a state business license issued by the Secretary of State. If the person is:

(a) An entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license at the time of filing the initial or annual list.

(b) Not an entity required to file an initial or annual list with the Secretary of State pursuant to this title, the person must obtain the state business license before conducting a business in this State.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Secretary of State;

(b) Set forth the name under which the applicant transacts or intends to transact business, or if the applicant is an entity organized pursuant to this title and on file with the Secretary of State, the exact name on file with the Secretary of State, the ~~entity~~ **business identification** number as assigned by the Secretary of State ~~[, if known,]~~ **pursuant to section 7 of this act**, and the location in this State of the place or places of business;

(c) Be accompanied by a fee in the amount of \$100; ~~and~~

(d) ~~Include a signed affidavit affirming or, if the applicant submits his or her application electronically, attesting that the business~~

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

~~— (2) Maintains a valid certificate of self insurance pursuant to chapters 616A to 616D, inclusive, of NRS;~~

~~— (3) Is a member of an association of self-insured public or private employers; or~~

~~— (4) Is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS; and~~

~~— (e)~~ Include any other information that the Secretary of State deems necessary.

➡ If the applicant is an entity organized pursuant to this title and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed pursuant to NRS 239.330 by:

(a) The owner of a business that is owned by a natural person.

(b) A member or partner of an association or partnership.

(c) A general partner of a limited partnership.

(d) A managing partner of a limited-liability partnership.

(e) A manager or managing member of a limited-liability company.

(f) An officer of a corporation or some other person specifically authorized by the corporation to sign the application.

4. If the application for a state business license is defective in any respect or the fee required by this section is not paid, the Secretary of State may return the application for correction or payment.

5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

~~6. The Secretary of State shall, through the state business portal established pursuant to NRS 75A.100, make available to the Administrator of the Division of Industrial Relations of the Department of Business and Industry monthly a list of the names of those businesses which have submitted an affidavit or attestation required by paragraph (d) of subsection 2.~~

~~7. Upon receiving an affidavit or attestation required by paragraph (d) of subsection 2, the Secretary of State shall, through the state business portal established pursuant to NRS 75A.100, provide the owner of the business with a document setting forth the rights and responsibilities of employers and employees to promote safety in the workplace in accordance with the regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.~~

~~8.~~ For the purposes of this chapter, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to this title, other than a business organized pursuant to:

(1) Chapter 82 or 84 of NRS; or
 (2) Chapter 81 of NRS if the business is a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).

(b) Has an office or other base of operations in this State;
 (c) Has a registered agent in this State; or
 (d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he or she is paid.

7. ~~10.1~~ As used in this section, “registered agent” has the meaning ascribed to it in NRS 77.230.

Sec. 7. Chapter 225 of NRS is hereby amended by adding thereto a new section to read as follows:

For the purpose of establishing the identity of an entity organized pursuant to title 7 of NRS or a person who is issued a state business license pursuant to chapter 76 of NRS or who claims to be excluded or exempt from the requirement to obtain a state business license pursuant to NRS 76.105, the Secretary of State shall assign a unique business identification number to each such entity or person.

Sec. 8. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, **75A.100**, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167,

394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 598.0964, 598A.110, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, **and section 3 of this act**, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or

copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 9. NRS 244.335 is hereby amended to read as follows:

244.335 1. Except as otherwise provided in subsections 2, 3 and 4, and NRS 244.33501, a board of county commissioners may:

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

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

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

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

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

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

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

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

(a) Signs an affidavit affirming that the business has complied with the provisions of chapter 76 of NRS; or

(b) Provides to the county license board the ~~entity~~ **business identification** number of the applicant assigned by the Secretary of State **pursuant to section 7 of this act** which the county may use to validate that the applicant is currently in good standing with the State and has complied with the provisions of chapter 76 of NRS.

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

(a) Presents written evidence that:

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

(2) Another regulatory agency of the State has issued or will issue a license required for this activity; or

(b) Provides to the county license board the ~~entity~~ **business identification** number of the applicant assigned by the Secretary of State **pursuant to section 7 of this act** which the county may use to validate that the applicant is currently in good standing with the State and has complied with the provisions of paragraph (a).

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

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

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

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

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

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

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

8. The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. If the authority is so delegated, the board of county commissioners shall revoke or suspend the license of a business upon certification by the county fair and recreation board

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

Sec. 9.5. NRS 244.33505 is hereby amended to read as follows:

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

(a) Signs an affidavit affirming that the business:

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

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

(3) Is a member of an association of self-insured public or private employers; or

(4) Is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS; or

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

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

3. ~~Each~~ **Except as otherwise provided in this subsection, each** board of county commissioners shall submit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry monthly a ~~list~~ **report** of the names of those businesses which have submitted an affidavit or attestation required by subsections 1 and 2. **A board of county commissioners is not required to include in the monthly report the name of a business which has submitted an attestation electronically via the state business portal.**

4. ~~Upon~~ **Except as otherwise provided in subsection 5, upon** receiving an affidavit or attestation required by this section, a board of county commissioners shall provide the owner of the business with a document setting forth the rights and responsibilities of employers and employees to promote

safety in the workplace, in accordance with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.

5. If an applicant submits an attestation required by this section electronically via the state business portal, the state business portal must provide the owner of the business with access to information setting forth the rights and responsibilities of employers and employees to promote safety in the workplace, in accordance with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.

6. As used in this section, “state business portal” means the state business portal established pursuant to chapter 75A of NRS.

Sec. 10. NRS 268.095 is hereby amended to read as follows:

268.095 1. Except as otherwise provided in subsection 4 and NRS 268.0951, the city council or other governing body of each incorporated city in this State, whether organized under general law or special charter, may:

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The city council or other governing body of an incorporated city shall not require that a person who is licensed as a contractor pursuant to chapter 624 of NRS obtain more than one license to engage in the business of contracting or pay more than one license tax related to engaging in the business of contracting, regardless of the number of classifications or subclassifications of licensing for which the person is licensed pursuant to chapter 624 of NRS.

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

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

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

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

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

(a) Signs an affidavit affirming that the business has complied with the provisions of chapter 76 of NRS; or

(b) Provides to the city licensing agency the ~~entity~~ **business identification** number of the applicant assigned by the Secretary of State **pursuant to section 7 of this act** which the city may use to validate that the applicant is currently in good standing with the State and has complied with the provisions of chapter 76 of NRS.

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

(a) Presents written evidence that:

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

(2) Another regulatory agency of the State has issued or will issue a license required for this activity; or

(b) Provides to the city licensing agency the ~~entity~~ **business identification** number of the applicant assigned by the Secretary of State **pursuant to section 7 of this act** which the city may use to validate that the applicant is currently in good standing with the State and has complied with the provisions of paragraph (a).

7. Any license tax levied under the provisions of this section constitutes a lien upon the real and personal property of the business upon which the tax

was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced:

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

- (1) The amount of tax due and the appropriate year;
- (2) The name of the record owner of the property;
- (3) A description of the property sufficient for identification; and
- (4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

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

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

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

Sec. 10.5. NRS 268.0955 is hereby amended to read as follows:

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

- (a) Signs an affidavit affirming that the business:

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

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

(3) Is a member of an association of self-insured public or private employers; or

(4) Is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS; or

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

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

3. ~~Each~~ **Except as otherwise provided in this subsection, each** city council or other governing body of an incorporated city shall submit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry monthly a ~~list~~ **report** of the names of those businesses which have submitted an affidavit or attestation required by subsections 1 and 2. **A city council or other governing board of an incorporated city is not required to include in the monthly report the name of a business which has submitted an attestation electronically via the state business portal.**

4. ~~Upon~~ **Except as otherwise provided in subsection 5, upon** receiving an affidavit or attestation required by this section, the city council or other governing body of an incorporated city shall provide the applicant with a document setting forth the rights and responsibilities of employers and employees to promote safety in the workplace in accordance with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.

5. **If an applicant submits an attestation required by this section electronically via the state business portal, the state business portal must provide the owner of the business with access to information setting forth the rights and responsibilities of employers and employees to promote safety in the workplace in accordance with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.**

6. **As used in this section, "state business portal" means the state business portal established pursuant to chapter 75A of NRS.**

Sec. 11. NRS 602.020 is hereby amended to read as follows:

602.020 1. A certificate filed pursuant to NRS 602.010 or a renewal certificate filed pursuant to NRS 602.035 must state the assumed or fictitious name under which the business is being conducted or is intended to be conducted, and if conducted by:

(a) A natural person:

(1) His or her full name;

- (2) The street address of his or her residence or business; and
 - (3) If the mailing address is different from the street address, the mailing address of his or her residence or business;
 - (b) An artificial person:
 - (1) Its name; and
 - (2) Its mailing address;
 - (c) A general partnership:
 - (1) The full name of each partner who is a natural person;
 - (2) The street address of the residence or business of each partner who is a natural person;
 - (3) If the mailing address is different from the street address, the mailing address of the residence or business of each partner who is a natural person; and
 - (4) If one or more of the partners is an artificial person described in paragraph (b), the information required by paragraph (b) for each such partner; or
 - (d) A trust:
 - (1) The full name of each trustee of the trust;
 - (2) The street address of the residence or business of each trustee of the trust; and
 - (3) If the mailing address is different from the street address, the mailing address of the residence or business of each trustee of the trust.
2. The certificate must be:
- (a) Signed:
 - (1) In the case of a natural person, by that natural person;
 - (2) In the case of an artificial person, by an officer, director, manager, general partner, trustee or other natural person having the authority to bind the artificial person to a contract;
 - (3) In the case of a general partnership, by each of the partners who is a natural person and, if one or more of the partners is an artificial person described in subparagraph (2), by the person described in subparagraph (2); or
 - (4) In the case of a trust, by each of the trustees; and
 - (b) Notarized, unless the board of county commissioners of the county adopts an ordinance providing that the certificate may be filed without being notarized.
3. ~~No county clerk may refuse to accept for filing a certificate filed by a foreign artificial person or foreign artificial persons because the foreign artificial person or foreign artificial persons have not qualified to do business in this State under title 7 of NRS.~~
- ~~4.~~ As used in this section:
- (a) “Artificial person” means any organization organized under the law of the United States, any foreign country, or a state, province, territory, possession, commonwealth or dependency of the United States or any foreign country, and as to which the government, state, province, territory, possession,

commonwealth or dependency must maintain a record showing the organization to have been organized.

(b) ~~“Foreign artificial person” means an artificial person that is not organized under the laws of this State.~~

~~—(c) “Record” means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.~~

Sec. 12. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115 and 612.642, information obtained from any employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person’s or employing unit’s identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant’s claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers’ compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; ~~and~~

(e) The State Contractors’ Board in the performance of its duties to enforce the provisions of chapter 624 of NRS ~~§~~ ; and

(f) The Secretary of State to operate the state business portal established pursuant to chapter 75A of NRS for the purposes of verifying that data submitted via the portal has satisfied the necessary requirements established by the Division, and as necessary to maintain the technical integrity and functionality of the state business portal established pursuant to chapter 75A of NRS.

➤ Information obtained in connection with the administration of the Division may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

4. Upon written request made by a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement

signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

5. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

6. Upon request therefor, the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

7. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that the Administrator furnish, from the records of the Division, the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

8. In addition to the provisions of subsection 5, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the taxes imposed

pursuant to chapters 363A and 363B of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. A private carrier that provides industrial insurance in this State shall submit to the Administrator a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during the preceding month and request that the Administrator compare the information so provided with the records of the Division regarding persons claiming benefits pursuant to this chapter for the same period. The information submitted by the private carrier must be in a form determined by the Administrator and must contain the social security number of each such person. Upon receipt of the request, the Administrator shall make such a comparison and, if it appears from the information submitted that a person is simultaneously claiming benefits under this chapter and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency. The Administrator shall charge a fee to cover the actual costs of any related administrative expenses.

10. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

11. If any employee or member of the Board of Review, the Administrator or any employee of the Administrator, in violation of the provisions of this section, discloses information obtained from any employing unit or person in the administration of this chapter, or if any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter uses or permits the use of the list for any political purpose, he or she is guilty of a gross misdemeanor.

12. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 13. ~~[NRS 616A.405 is hereby amended to read as follows:
616A.405 The Administrator may adopt regulations relating to
[NRS 244.33505 and 268.0955,] the affidavit required by paragraph (d) of
subsection 2 of NRS 76.100, including regulations specifying the form of the
affidavit required by [those sections.] that provision.] (Deleted by
amendment.)~~

Sec. 14. NRS 719.345 is hereby amended to read as follows:
719.345 The Secretary of State may require a governmental agency of this State or a governmental agency of a political subdivision of this State, as a condition of participation in the state business portal established pursuant to

chapter 75A of NRS, ~~[75A.100, 75A.200 and 75A.300,]~~ to send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use and rely upon electronic records and electronic signatures.

Sec. 15. NRS 237.180, ~~[244.33505,]~~ 244.33506, 244.33507, 266.358, 266.368, ~~[268.0955,]~~ 269.171, 269.173, 364.110 and 364.120 are hereby repealed.

Sec. 16. 1 This act becomes effective on October 1, 2015.

2. ~~[Section 5]~~ **Sections 5.3 and 5.7** of this act ~~[expires]~~ **expire** by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
 ➔ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS

237.180 Requirements; annual meeting to design and modify joint forms.

~~[244.33505 Business required to submit affidavit or attestation concerning industrial insurance upon application for license or post office box; provision by county of monthly list to Division of Industrial Relations; board of county commissioners to provide business with document setting forth rights and responsibilities of employers and employees for promotion of safety in workplace.]~~

244.33506 Application for or renewal of license, permit or certificate: Statement regarding obligation of child support required; grounds for denial; duty of board of county commissioners.

244.33507 Application for issuance of license, permit or certificate: Social security number required.

266.358 Payment of child support: Statement by applicant for license, permit or certificate; grounds for denial of license, permit or certificate; duty of city council.

266.368 Application for license, permit or certificate must include social security number of applicant.

~~[268.0955 Business required to submit affidavit or attestation concerning industrial insurance upon application for license or post office box; provision by city of monthly list to Division of Industrial Relations; governing body of incorporated city to provide business with document setting forth rights and responsibilities of employers and employees for promotion of safety in workplace.]~~

269.171 Payment of child support: Statement by applicant for license, permit or certificate; grounds for denial of license, permit or certificate; duty of town board or board of county commissioners.

269.173 Application for license, certificate or permit must include social security number of applicant.

364.110 Licensing authority to require affidavit.

364.120 Filing fee for required affidavit.

Assemblyman Ellison moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 366.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 361.

AN ACT relating to taxation; authorizing a county, city or town to use that portion of money received by the county, city or town from the imposition of certain motor vehicle fuel taxes for the construction, maintenance and repair of certain rights-of-way within the jurisdiction of the county, city or town; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the distribution to and use by a county, city or town of the proceeds of certain motor vehicle fuel taxes. (NRS 365.535-365.565) Existing law authorizes counties, cities and towns to use such proceeds for various purposes relating to the construction, maintenance or repair of public roads and highways within the jurisdiction of the county, city or town. **Sections 5-8** of this bill generally provide for the uniform use of such proceeds by a county, city or town for the construction, maintenance and repair of a right-of-way within the jurisdiction of the respective county, city or town. **Section 3** of this bill defines "construction, maintenance and repair" for the purposes of **sections 5-8** to include **: (1) any costs, other than administrative costs, that are directly connected with and necessarily incidental to the construction, maintenance and repair of a right-of-way, including, without limitation, the costs of labor, designing any improvement within a right-of-way and inspecting any improvement within a right-of-way** ~~;~~ **; and (2) administrative costs only if those costs are directly incurred by a local government in connection with the construction, maintenance and repair of a right-of-way and are necessary for, and directly incidental to, the completion of the project for the administrative costs are incurred.** **Section 4** defines "right-of-way" for certain purposes to mean any existing public road, highway, street or alley, and any real property or any interest therein that is acquired, dedicated or reserved for the construction, operation and maintenance of a public road, highway, street or alley.

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

Section 1. Chapter 365 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 NRS 365.535 to 365.565, inclusive, and sections 2, 3 and 4 of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Construction, maintenance and repair” includes, without limitation:*

1. The acquisition, operation or use of any material, equipment or facility that is used ~~for~~ exclusively for the construction, maintenance or repair of a right-of-way and is necessary for the safe and efficient use of the right-of-way;

2. Grades and regrades;

3. Graveling, oiling, surfacing, macadamizing and paving;

4. Sweeping, cleaning and sanding roads and removing snow from roads;

5. Installing, maintaining and repairing:

(a) Crosswalks, ~~and~~ sidewalks ~~for~~ and pathways that are within the right-of-way;

(b) Culverts, catch basins, drains, sewers and manholes;

(c) Inlets and outlets;

(d) Retaining walls, bridges, overpasses, underpasses, tunnels and approaches;

(e) Artificial lights and lighting equipment, parkways and sprinkling facilities and the control of vegetation;

(f) Grade and traffic separators;

(g) Fences, cattle guards and other devices to control access to a county or city road;

(h) Signs ~~and~~, markings and devices for the control of traffic; and

(i) Facilities for personnel and the storage of equipment used to construct, maintain or repair a right-of-way; and

6. The payment of any costs, other than administrative costs, that are directly connected with and necessarily incidental to the construction, maintenance and repair of a right-of-way, including, without limitation, the costs of labor, designing any improvement within a right-of-way and inspecting any improvement within a right-of-way.

7. The payment of administrative costs that are:

(a) Directly incurred by a local government in connection with the construction, maintenance and repair of a right-of-way; and

(b) Necessary for, and directly incidental to, the completion of the project for which the administrative costs are incurred.

Sec. 4. *“Right-of-way” means:*

1. Any public road, highway, street or alley.

2. Any real property or any interest therein that is acquired, dedicated or reserved for the construction, operation and maintenance of a public road, highway, street or alley.

Sec. 5. NRS 365.540 is hereby amended to read as follows:

365.540 1. The money collected, as prescribed by NRS 365.175 and 365.185, from the tax on motor vehicle fuels, other than aviation fuel, after the remittances and deposits have first been made pursuant to the provisions of NRS 365.535, must be placed to the credit of the State Highway Fund by the State Treasurer. An amount equal to that part of the tax collected pursuant to NRS 365.175, which represents 5 cents of the tax per gallon must be used exclusively for the construction, ~~and~~ maintenance **and repair** of ~~public highways, and may not be used to purchase equipment related thereto.~~ **a right-of-way.**

2. The money collected, as prescribed by NRS 365.180 and 365.190, after the remittances and deposits have first been made pursuant to the provisions of NRS 365.535, must be allocated by the Department as prescribed in NRS 365.550 and 365.560.

3. The money collected as prescribed by NRS 365.200 must be allocated by the Department as prescribed by NRS 365.550 and 365.560.

4. The money collected from the tax on aviation fuel must be deposited by the Department with the State Treasurer for credit to the Account for Taxes on Aviation Fuel, which is hereby created as a revolving account.

Sec. 6. NRS 365.550 is hereby amended to read as follows:

365.550 1. Except as otherwise provided in subsection 2, the receipts of the tax levied pursuant to NRS 365.180 must be allocated monthly by the Department to the counties using the following formula:

(a) Determine the average monthly amount each county received in the Fiscal Year ending on June 30, 2003, and allocate to each county that amount, or if the total amount to be allocated is less than that amount, allocate to each county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the Fiscal Year ending on June 30, 2003;

(b) If the total amount to be allocated is greater than the average monthly amount all counties received in the Fiscal Year ending on June 30, 2003, determine for each county an amount from the total amount to be allocated using the following formula:

(1) Multiply the county's percentage share of the total state population by 2;

(2) Add the percentage determined pursuant to subparagraph (1) to the county's percentage share of total mileage of improved roads or streets maintained by the county or an incorporated city located within the county;

(3) Divide the sum of the percentages determined pursuant to subparagraph (2) by 3; and

(4) Multiply the total amount to be allocated by the percentage determined pursuant to subparagraph (3);

(c) Identify each county for which the amount determined pursuant to paragraph (b) is greater than the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (a) from the amount determined pursuant to paragraph (b); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(d) Identify each county for which the amount determined pursuant to paragraph (b) is less than or equal to the amount allocated to the county pursuant to paragraph (a) and:

(1) Subtract the amount determined pursuant to paragraph (b) from the amount determined pursuant to paragraph (a); and

(2) Add the amounts determined pursuant to subparagraph (1) for all counties;

(e) Subtract the amount determined pursuant to subparagraph (2) of paragraph (d) from the amount determined pursuant to subparagraph (2) of paragraph (c);

(f) Divide the amount determined pursuant to subparagraph (1) of paragraph (c) for each county by the sum determined pursuant to subparagraph (2) of paragraph (c) for all counties to determine each county's percentage share of the sum determined pursuant to subparagraph (2) of paragraph (c); and

(g) In addition to the allocation made pursuant to paragraph (a), allocate to each county that is identified pursuant to paragraph (c) a percentage of the total amount determined pursuant to paragraph (e) that is equal to the percentage determined pursuant to paragraph (f).

2. At the end of each fiscal year, the Department shall:

(a) Determine the total amount to be allocated to all counties pursuant to subsection 1 for the current fiscal year; and

(b) Use the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to each county an amount determined pursuant to subsection 3.

3. If the total amount to be allocated to all the counties determined pursuant to paragraph (a) of subsection 2:

(a) Does not exceed the total amount that was received by all the counties for the Fiscal Year ending on June 30, 2003, the Department shall adjust the final monthly allocation to be made to each county so that each county is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county in the Fiscal Year ending on June 30, 2003.

(b) Exceeds the total amount that was received by all counties for the Fiscal Year ending on June 30, 2003, the Department shall:

(1) Identify the total amount allocated to each county for the Fiscal Year ending on June 30, 2003, and the total amount for the current fiscal year determined pursuant to paragraph (a) of subsection 2;

(2) Apply the formula set forth in paragraph (b) of subsection 1 using the amounts in subparagraph (1), instead of the monthly amounts, to determine the total allocations to be made to the counties for the current fiscal year; and

(3) Adjust the final monthly allocation to be made to each county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to subparagraph (2).

4. Of the money allocated to each county pursuant to the provisions of subsections 1, 2 and 3:

(a) An amount equal to that part of the allocation which represents 1.25 cents of the tax per gallon must be used exclusively for the service and redemption of revenue bonds issued pursuant to NRS 373.131, for the construction, maintenance and repair of county ~~roads, and for the purchase of equipment for that construction, maintenance and repair,~~ **rights-of-way** under the direction of the boards of county commissioners of the several counties. ~~It and must not be used to defray expenses of administration.~~

(b) An amount equal to that part of the allocation which represents 2.35 cents of the tax per gallon must be allocated to the county, if there are no incorporated cities in the county, or, if there is at least one incorporated city in the county, allocated monthly by the Department to the county and each incorporated city in the county using, except as otherwise provided in paragraph (c), the following formula:

(1) Determine the average monthly amount the county and each incorporated city in the county received in the fiscal year ending on June 30, 2005, and allocate to the county and each incorporated city in the county that amount, or if the total amount to be allocated is less than that amount, allocate to the county and each incorporated city in the county a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county or incorporated city, as applicable, in the fiscal year ending on June 30, 2005.

(2) If the total amount to be allocated is greater than the average monthly amount the county and all incorporated cities within the county received in the fiscal year ending on June 30, 2005, determine for the county and each incorporated city in the county an amount from the total amount to be allocated using the following formula:

(I) One-fourth in proportion to total area.

(II) One-fourth in proportion to population.

(III) One-fourth in proportion to the total mileage of improved roads and streets maintained by the county or incorporated city in the county, as applicable.

(IV) One-fourth in proportion to vehicle miles of travel on improved roads and streets maintained by the county or incorporated city in the county, as applicable.

↪ For the purpose of applying the formula, the area of the county excludes the area included in any incorporated city.

(3) Identify whether the county or any incorporated city in the county had an amount determined pursuant to subparagraph (2) that was greater than the amount allocated to the county or incorporated city, as applicable, pursuant to subparagraph (1) and, if so:

(I) Subtract the amount determined pursuant to subparagraph (1) from the amount determined pursuant to subparagraph (2); and

(II) Add the amounts determined pursuant to sub-subparagraph (I) for the county and all incorporated cities in the county.

(4) Identify whether the county or any incorporated city in the county had an amount determined pursuant to subparagraph (2) that was less than or equal to the amount determined for the county or incorporated city, as applicable, pursuant to subparagraph (1) and, if so:

(I) Subtract the amount determined pursuant to subparagraph (2) from the amount determined pursuant to subparagraph (1); and

(II) Add the amounts determined pursuant to sub-subparagraph (I) for the county and all incorporated cities in the county.

(5) Subtract the amount determined pursuant to sub-subparagraph (II) of subparagraph (4) from the amount determined pursuant to sub-subparagraph (II) of subparagraph (3).

(6) Divide the amount determined pursuant to sub-subparagraph (I) of subparagraph (3) for the county and each incorporated city in the county by the sum determined pursuant to sub-subparagraph (II) of subparagraph (3) for the county and all incorporated cities in the county to determine the county's and each incorporated city's percentage share of the sum determined pursuant to sub-subparagraph (II) of subparagraph (3).

(7) In addition to the allocation made pursuant to subparagraph (1), allocate to the county and each incorporated city in the county that is identified pursuant to subparagraph (3) a percentage of the total amount determined pursuant to subparagraph (5) that is equal to the percentage determined pursuant to subparagraph (6).

(c) At the end of each fiscal year, the Department shall:

(1) Determine the total amount to be allocated to a county and each incorporated city within the county pursuant to paragraph (b) for the current fiscal year; and

(2) Use the amount equal to that part of the allocation which represents 2.35 cents per gallon of the proceeds of the tax paid by a dealer, supplier or user for June of the current fiscal year to allocate to a county and each incorporated city in the county an amount determined pursuant to paragraph (d).

(d) If the total amount to be allocated to a county and all incorporated cities in the county determined pursuant to subparagraph (1) of paragraph (c):

(1) Does not exceed the total amount that was received by the county and all the incorporated cities in the county for the fiscal year ending on June 30,

2005, the Department shall adjust the final monthly amount allocated to the county and each incorporated city in the county so that the county and each incorporated city is allocated a percentage of the total amount to be allocated that is equal to the percentage of the total amount allocated to that county or incorporated city, as applicable, in the fiscal year ending on June 30, 2005.

(2) Exceeds the total amount that was received by the county and all incorporated cities in the county for the fiscal year ending on June 30, 2005, the Department shall:

(I) Identify the total amount allocated to the county and each incorporated city in the county for the fiscal year ending on June 30, 2005, and the total amount for the current fiscal year determined pursuant to subparagraph (1) of paragraph (c);

(II) Apply the formula set forth in subparagraph (2) of paragraph (b) using the amounts in sub-subparagraph (I), instead of the monthly amounts, to determine the total allocations to be made to the county and the incorporated cities in the county for the current fiscal year; and

(III) Adjust the final monthly allocation to be made to the county and each incorporated city in the county to ensure that the total allocations for the current fiscal year equal the amounts determined pursuant to sub-subparagraph (II).

5. The amount allocated to the counties and incorporated cities pursuant to subsections 1 to 4, inclusive, must be remitted monthly. The State Controller shall draw his or her warrants payable to the county treasurer of each of the several counties and the city treasurer of each of the several incorporated cities, as applicable, and the State Treasurer shall pay the warrants out of the proceeds of the tax levied pursuant to NRS 365.180.

6. The formula computations must be made as of July 1 of each year by the Department of Motor Vehicles, based on estimates which must be furnished by the Department of Transportation and, if applicable, any adjustments to the estimates determined to be appropriate by the Committee pursuant to subsection 10. Except as otherwise provided in subsection 10, the determination made by the Department of Motor Vehicles is conclusive.

7. The Department of Transportation shall complete:

(a) The estimates of the total mileage of improved roads or streets maintained by each county and incorporated city on or before August 31 of each year.

(b) A physical audit of the information submitted by each county and incorporated city pursuant to subsection 8 at least once every 10 years.

8. Each county and incorporated city shall, not later than March 1 of each year, submit a list to the Department of Transportation setting forth:

(a) Each improved road or street that is maintained by the county or city; and

(b) The beginning and ending points and the total mileage of each of those improved roads or streets.

↪ Each county and incorporated city shall, at least 10 days before the list is submitted to the Department of Transportation, hold a public hearing to identify and determine the improved roads and streets maintained by the county or city.

9. If a county or incorporated city does not agree with the estimates prepared by the Department of Transportation pursuant to subsection 7, the county or incorporated city may request that the Committee examine the estimates and recommend an adjustment to the estimates. Such a request must be submitted to the Committee not later than October 15.

10. The Committee shall hold a public hearing and review any request it receives pursuant to subsection 9 and determine whether an adjustment to the estimates is appropriate on or before December 31 of the year it receives a request pursuant to subsection 9. Any determination made by the Committee pursuant to this subsection is conclusive.

11. The Committee shall monitor the fiscal impact of the formula set forth in this section on counties and incorporated cities. Biennially, the Committee shall prepare a report concerning its findings and recommendations regarding that fiscal impact and submit the report on or before February 15 of each odd-numbered year to the Director of the Legislative Counsel Bureau for transmittal to the Senate and Assembly Committees on Taxation of the Nevada Legislature for their review.

12. As used in this section:

(a) “Committee” means the Committee on Local Government Finance created pursuant to NRS 354.105.

(b) ~~“Construction, maintenance and repair” includes the acquisition, operation or use of any material, equipment or facility that is used exclusively for the construction, maintenance or repair of a county or city road and is necessary for the safe and efficient use of that road, including, without limitation:~~

- ~~— (1) Grades and regrades;~~
- ~~— (2) Graveling, oiling, surfacing, macadamizing and paving;~~
- ~~— (3) Sweeping, cleaning and sanding roads and removing snow from a road;~~
- ~~— (4) Crosswalks and sidewalks;~~
- ~~— (5) Culverts, catch basins, drains, sewers and manholes;~~
- ~~— (6) Inlets and outlets;~~
- ~~— (7) Retaining walls, bridges, overpasses, underpasses, tunnels and approaches;~~
- ~~— (8) Artificial lights and lighting equipment, parkways, control of vegetation and sprinkling facilities;~~
- ~~— (9) Rights of way;~~
- ~~— (10) Grade and traffic separators;~~
- ~~— (11) Fences, cattle guards and other devices to control access to a county or city road;~~
- ~~— (12) Signs and devices for the control of traffic; and~~

~~—(13) Facilities for personnel and the storage of equipment used to construct, maintain or repair a county or city road.~~

~~—(c) “Improved road or street” means a road or street that is, at least:~~

(1) Aligned and graded to allow reasonably convenient use by a motor vehicle; and

(2) Drained sufficiently by a longitudinal and transverse drainage system to prevent serious impairment of the road or street by surface water.

~~{(d)}~~ (c) “Total mileage of an improved road or street” means the total mileage of the length of an improved road or street, without regard to the width of that road or street or the number of lanes ~~{it}~~ **the road or street** has for vehicular traffic.

Sec. 7. NRS 365.560 is hereby amended to read as follows:

365.560 1. The receipts of the tax levied pursuant to NRS 365.190 must be allocated monthly by the Department to the counties in which the payment of the tax originates pursuant to the formula set forth in subsection 2.

2. The receipts must be apportioned by the Department between the county, towns with town boards as organized under NRS 269.016 to 269.019, inclusive, and incorporated cities within the county in the same ratio as the assessed valuation of property within the boundaries of the towns or incorporated cities within the county bears to the total assessed valuation of property within the county, including property within the towns or incorporated cities.

3. Any money apportioned to a county pursuant to subsection 2 must be expended by the county solely for:

(a) The service and redemption of revenue bonds issued pursuant to chapter 373 of NRS; **and**

(b) The construction, maintenance and repair of ~~{the public highways of the}~~ county ~~}; and~~

~~—(c) The purchase of equipment for that construction, maintenance and repair.~~

~~→ The money must not be used to defray the expenses of administration.}~~
rights-of-way.

4. Any money apportioned to towns or incorporated cities pursuant to subsection 2 must be expended only ~~{upon the streets, alleys and public highways of the town or city,}~~ **for the construction, maintenance and repair of rights-of-way**, other than state highways, under the direction and control of the governing body of the town or city.

~~{5. As used in this section, “construction, maintenance and repair” has the meaning ascribed to it in NRS 365.550.}~~

Sec. 8. NRS 365.562 is hereby amended to read as follows:

365.562 1. The receipts of the tax as levied in NRS 365.192 must be allocated monthly by the Department to the counties in proportion to the number of gallons of fuel that are sold to the retailers in each county pursuant to the information contained in the statements provided to the Department pursuant to NRS 365.192.

2. The Department must apportion the receipts of that tax among the county, for unincorporated areas of the county, and each incorporated city in the county. The county and each city are respectively entitled to receive each month that proportion of those receipts which its total population bears to the total population of the county.

3. The money apportioned to the county or a city must be used by ~~it solely to~~ **the county or city for the construction, maintenance and** repair ~~for restore existing paved roads, streets and alleys,~~ **of the rights-of-way in the county or city**, other than those maintained by the Federal Government and this State . ~~It by resurfacing, overlaying, resealing or other such customary methods.~~

Sec. 9. This act becomes effective on July 1, 2015.

Assemblyman Armstrong moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 371.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 548.

SUMMARY—~~[Revises]~~ **Establishes** provisions governing the destruction of certain physical evidence. (BDR 4-734)

AN ACT relating to evidence; authorizing a law enforcement agency to destroy certain physical evidence under certain conditions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a law enforcement agency that has seized a substance that is alleged to be a controlled substance, dangerous drug or immediate precursor may destroy a part of the substance if the agency obtains the prior approval of the district court in the county in which a defendant is charged in connection with the substance. (NRS 52.395) **Section 1.5 of this bill exempts from the applicability of those provisions any substance that is alleged to be marijuana.**

Section 1 of this bill **establishes new procedures for the retention and destruction of certain quantities of any substance that is alleged to be marijuana which has been seized as evidence by a law enforcement agency.** **Section 1** authorizes a law enforcement agency **that has seized such a substance** to destroy any amount of ~~it~~ **the** substance ~~that is alleged to be a controlled substance, dangerous drug or immediate precursor,~~ that exceeds 10 pounds ~~if the substance is alleged to be marijuana or 1 pound of any other substance,~~ without court approval if the law enforcement agency: (1) weighs the substance; (2) takes and retains certain samples of the substance for evidentiary purposes; and (3) takes photographs that reasonably demonstrate the total amount of the substance.

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

Section 1. Chapter 52 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in NRS 453A.400:

1. At any time after a substance which is alleged to be marijuana is seized from a defendant by a peace officer, the law enforcement agency of which the officer is a member may, without the prior approval of the district court in the county in which the defendant is charged, destroy any amount of the substance that exceeds 10 pounds.

2. The law enforcement agency must, before destroying the substance pursuant to this section:

(a) Accurately weigh and record the weight of the substance.

(b) Take and retain, for evidentiary purposes, at least five random and representative samples of the substance in addition to the amount which is not authorized to be destroyed pursuant to subsection 1. If the substance is alleged to consist of growing or harvested marijuana plants, the 10 pounds retained pursuant to subsection 1 may include stalks, branches, leaves and buds, but the five representative samples must consist of only leaves or buds.

(c) Take photographs that reasonably demonstrate the total amount of the substance. A sign which clearly and conspicuously shows the title or the case number of the matter, proceeding or action to which the substance relates must appear next to the substance in any photograph taken.

3. A law enforcement agency that destroys a substance pursuant to this section shall, not later than 30 days after the destruction of the substance, file an affidavit in the court which has jurisdiction over the pending criminal proceedings, if any, pertaining to that substance. The affidavit must establish that the law enforcement agency has complied with the requirements of subsection 2, specify the date and time of the destruction of the substance and provide the publicly known address of the agency. If there are no criminal proceedings pending which pertain to the substance, the affidavit may be filed in any court within the county which would have jurisdiction over a person against whom such criminal charged might be filed.

4. If the substance is finally determined not to be marijuana, the owner may file a claim against the county to recover the reasonable value of the property destroyed pursuant to this section.

5. The law enforcement agency's finding as to the weight of any substance alleged to be marijuana and destroyed pursuant to this section is admissible in any subsequent proceeding arising out of the same transaction.

~~[Section 1.]~~ **Sec. 1.5.** NRS 52.395 is hereby amended to read as follows:

52.395 ~~[Except as otherwise provided in NRS 453A.400:]~~

1. ~~When~~ ~~[At]~~ any ~~time after a~~ substance ~~that is~~ alleged to be a controlled substance, dangerous drug or immediate precursor is seized from a

defendant by a peace officer, the law enforcement agency of which the officer is a member may, ~~with~~ ~~without~~ the prior approval of the prosecuting attorney, petition the district court in the county in which the defendant is charged ~~for~~ to secure permission to destroy a part ~~any amount~~ of the substance ~~that exceeds 10 pounds if the substance is alleged to be marijuana or 1 pound of any other substance.~~

2. Upon receipt of a petition filed pursuant to subsection 1, the district court shall order the substance to be accurately weighed and the weight thereof accurately recorded. The prosecuting attorney or the prosecuting attorney's representative and the defendant or the defendant's representative must be allowed to inspect and weigh the substance.

3. If after completion of the weighing process the defendant does not knowingly and voluntarily stipulate to the weight of the substance, the district court shall hold a hearing to make a judicial determination of the weight of the substance. The defendant, the defendant's attorney and any other witness the defendant may designate may be present and testify at the hearing.

4. After a determination has been made as to the weight of the substance, the district court may order all of the substance destroyed except that amount which is reasonably necessary to enable each interested party to analyze the substance to determine the composition of the substance. The district court shall order the remaining sample to be sealed and maintained for analysis before trial.

5. ~~The law enforcement agency must, before destroying a substance pursuant to this section:~~

~~—(a) Accurately weigh and record the weight of the substance.~~

~~—(b) Take and retain, for evidentiary purposes, at least five random and representative samples of the substance in addition to the amounts required by subsection 1. If the substance is alleged to consist of growing or harvested marijuana plants, the 10 pounds retained pursuant to subsection 1 may include stalks, branches, leaves and buds, but the five representative samples must consist of only leaves or buds.~~

~~—(c) Take photographs that reasonably demonstrate the total amount of the substance. A sign which clearly and conspicuously shows the title or the case number of the matter, proceeding or action to which the substance relates must appear next to the substance in any photograph taken.~~

~~3. A law enforcement agency that destroys a substance pursuant to this section shall, not later than 30 days after the destruction of the substance, file an affidavit in the court which has jurisdiction over the pending criminal proceedings, if any, pertaining to that substance. The affidavit must establish that the law enforcement agency has complied with the requirements of subsection 2, specify the date and time of the destruction of the substance and provide the publicly known address of the agency. If there are no criminal proceedings pending which pertain to the substance, the affidavit may be filed in any court within the county which would have jurisdiction over a person against whom such criminal charges might be filed.~~

~~4.1~~ If the substance is finally determined not to be a controlled substance, dangerous drug or immediate precursor, unless the substance was destroyed pursuant to subsection 7, ~~16.1~~ the owner may file a claim against the county to recover the reasonable value of the property destroyed pursuant to this section.

~~6. 15.1~~ The ~~district court's~~ ~~law enforcement agency's~~ finding as to the weight of a substance destroyed pursuant to this section is admissible in any subsequent proceeding arising out of the same transaction.

~~7. 16.1~~ If at the time that a peace officer seizes from a defendant a substance believed to be a controlled substance, dangerous drug or immediate precursor, the peace officer discovers any material or substance that he or she reasonably believes is hazardous waste, the peace officer may appropriately dispose of the material or substance without securing the permission of a court.

~~8. 17.1~~ **This section does not apply to any substance that is alleged to be marijuana which is seized from a defendant by a peace officer.**

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

- (a) "Dangerous drug" has the meaning ascribed to it in NRS 454.201.
- (b) "Hazardous waste" has the meaning ascribed to it in NRS 459.430.
- (c) "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~Sec. 2. NRS 52.500 is hereby amended to read as follows:~~

~~52.500 1. Photographs, samples and writings describing the measurements, including [actual net] , without limitation, gross weight or estimated [net] gross weight, of hazardous waste or a hazardous material are admissible in evidence in lieu of the waste or material in any criminal or civil proceeding if they are authenticated.~~

~~2. As used in this section:~~

- ~~(a) "Hazardous material" has the meaning ascribed to it in NRS 459.7024.~~
- ~~(b) "Hazardous waste" has the meaning ascribed to it in NRS 459.430.]~~

(Deleted by amendment.)

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 377.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 253.

SUMMARY—Establishes provisions for the preservation, development and use of the Nevada State Prison as a historical, **cultural**, educational and scientific resource. (BDR 26-625)

AN ACT relating to the Nevada State Prison; requiring the State Land Registrar to ~~transfer the historical~~ **determine which** structures, **buildings and other property** of the ~~(Nevada State)~~ Prison **are appropriate** for **continued** administration ~~to the Division of Museums and History of the Department of Tourism and Cultural Affairs;~~ requiring the State Land Registrar to transfer

~~certain other property of the Nevada State Prison for administration}~~ **by the Department of Corrections and to assign that property** to the Silver State Industries Division of the Department ~~{of Corrections; creating the Endowment Fund for the Historic Preservation of the Nevada State Prison; prescribing the uses of the money in the Endowment Fund for the Historic Preservation of the Nevada State Prison, which include the operation, maintenance and preservation of the historic structures of the Nevada State Prison as a historical, educational and scientific resource;}~~ **; requiring the Registrar to determine which structures, buildings and other property of the Prison are appropriate for administration as a historical, cultural, educational and scientific resource and to assign that property to an appropriate state agency for administration;** creating the Silver State Industries Endowment Fund ~~{,}~~ **and the Endowment Fund for the Historic Preservation of the Nevada State Prison and** prescribing the uses of the money in the ~~{Silver State Industries Endowment Fund, which include maintaining the modern structures of the Nevada State Prison; requiring the State Treasurer, at the end of each fiscal year, to transfer certain money from the Silver State Industries Endowment Fund to the Endowment Fund for the Historic Preservation of the Nevada State Prison;}~~ **Funds; authorizing the Department of Corrections and any other state agency to which an assignment of property of the Prison is made to grant a special use permit or enter into an agreement with a nonprofit corporation relating to commercial and tourist activities at the Prison; requiring the Board of Museums and History to establish a dedicated trust fund for the study and development of certain property of the Prison;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Assembly Bill No. 356 of the 77th Legislative Session encouraged the development of recommendations to preserve the Nevada State Prison for use as a historical, educational and scientific resource for the State of Nevada. The provisions of this bill are based upon the recommendations presented to the Legislature pursuant to Assembly Bill No. 356. Upon notice from the Department of Corrections that the Department has ceased all operational activities at the ~~{Nevada State}~~ Prison, **section 2** of this bill requires the State Land Registrar, in consultation with Carson City, the Department of Corrections, the ~~{Division of Museums and History of the}~~ Department of Tourism and Cultural Affairs, ~~{and the Office of Historic Preservation of}~~ the State Department of Conservation and Natural Resources ~~{,}~~ **and the Nevada State Prison Preservation Society** to: (1) ~~{designate certain}~~ **determine which** property of the ~~{Nevada State}~~ Prison ~~{as historic structures;}~~ (2) ~~{assign the historic structures of the Nevada State Prison for administration to the Division of Museums and History; and (3)}~~ **is appropriate for continued administration by the Department of Corrections and which property is appropriate for administration as a historical, cultural, educational and scientific resource; and (2)** assign **for administration** the ~~{modern structures}~~

~~of the Nevada State Prison for administration.]~~ **property in the former category** to the Silver State Industries Division of the Department of Corrections.~~;~~

~~Section 3 of this bill creates the Endowment Fund for the Historic Preservation of the Nevada State Prison, which must be administered by the Division of Museums and History. Section 3 prescribes the uses of the money in the Fund, which include the operation, maintenance and preservation of the historic structures of the Nevada State Prison as a historical, educational and scientific resource.] and the latter property to an appropriate state agency.~~

Section 4 of this bill creates the Silver State Industries Endowment Fund, which must be administered by the Silver State Industries Division. ~~for the Department of Corrections.]~~ **Section 4** prescribes the uses of the money in the Fund, which include maintaining the modern structures, **buildings and other property** of the ~~(Nevada State)~~ Prison. **Section 4** also requires the State Treasurer, at the end of each fiscal year, to transfer to the Endowment Fund for the Historic Preservation of the Nevada State Prison ~~fall~~, **created by section 6 of this bill, a portion of** the money remaining in the Silver State Industries Endowment Fund. ~~for other than the money which represents the principal of the Silver State Industries Endowment Fund.]~~ **Section 6 creates the Endowment Fund for the Historic Preservation of the Nevada State Prison and requires that the money in the Fund be used to operate, maintain and preserve the historic structures, buildings and other property of the Prison.**

Sections 7 and 10 of this bill authorize the Department of Corrections and any other state agency to which an assignment of the historic property of the Prison is made to grant a special use permit or enter into an agreement with a nonprofit corporation, pursuant to which the corporation is authorized to conduct tours and engage in other activities relating to that property.

Existing law requires the Board of Museums and History to create and administer the Division of Museums and History Dedicated Trust Fund. (NRS 381.0031, 381.0033) Section 8 of this bill requires the Board to create a similar trust fund for the deposit of certain money that becomes available from grants, donations and gifts to be used for further study and development of the historic property of the Prison. Section 8 requires that the trust fund be administered by the Board in consultation with the state agency to which that property is assigned and the Nevada State Prison Preservation Society or its successor.

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

Section 1. Chapter 321 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, ~~1~~ and 3 ~~and 4~~ of this act.

Sec. 2. *As soon as practicable after the date on which the Department of Corrections provides notice to the State Land Registrar that the*

Department has ceased all operational activities at the Nevada State Prison located on East Fifth Street in Carson City, the State Land Registrar shall:

1. ~~In~~ Determine, in consultation with Carson City, the Department of Corrections, the ~~Division of Museums and History of the~~ Department of Tourism and Cultural Affairs, ~~and the Office of Historic Preservation of the State Department of Conservation and Natural Resources~~ ~~+~~

~~(a) Determine which~~ and the Nevada State Prison Preservation Society:

(a) Which structures, buildings and other property of the Nevada State Prison, not identified pursuant to paragraph (b), are ~~of historical significance and designate such structures, buildings and other property as historic structures;~~ appropriate for continued administration by the Department of Corrections; and

(b) ~~Designate as modern structures all~~ Which structures, buildings and other property of the Nevada State Prison ~~not otherwise designated as historic structures pursuant to paragraph (a).~~ are appropriate for administration as a historical, cultural, educational and scientific resource.

2. ~~Assign the historic structures of the Nevada State Prison for administration to the Division of Museums and History of the Department of Tourism and Cultural Affairs.~~

~~3. Assign the modern structures of the Nevada State Prison for administration to the Silver State Industries Division of the Department of Corrections.~~ for administration, in accordance with the determinations made pursuant to subsection 1, the structures, buildings and other property of the Nevada State Prison described in:

(a) Paragraph (a) of that subsection to the Silver State Industries Division of the Department of Corrections.

(b) Paragraph (b) of that subsection to an appropriate state agency among those identified in that subsection or any other appropriate state agency.

Sec. 3. ~~1. The Endowment Fund for the Historic Preservation of the Nevada State Prison is hereby created as a trust fund in the State Treasury.~~

~~2. The State Treasurer shall deposit in the Fund:~~

~~(a) Any money received from any commercial or tourist enterprises relating to the use as a museum of the historic structures of the Nevada State Prison.~~

~~(b) At the end of each fiscal year, an amount of money equal to the amount of money deposited into and remaining in the Silver State Industries Endowment Fund created by section 4 of this act, other than the money which represents the principal of the Silver State Industries Endowment Fund.~~

~~(c) Any other gifts, grants or donations of money the State Treasurer receives from any person who wishes to contribute to the Fund.~~

~~3. The Fund must be administered by the Division of Museums and History of the Department of Tourism and Cultural Affairs.~~

~~4. The money in the Fund must only be used for the purposes of the operation, maintenance and preservation of the historic structures of the~~

~~Nevada State Prison as a historical, educational and scientific resource. 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. The Division of Museums and History may use not more than 10 percent of the interest earned on the principal of the Fund to pay administrative costs.~~

~~5. As used in this section, "historic structures of the Nevada State Prison" means the structures, buildings and other property of the Nevada State Prison designated by the State Land Registrar as historic structures and assigned for administration to the Division of Museums pursuant to section 2 of this act. (Deleted by amendment.)~~

Sec. 4. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Silver State Industries Endowment Fund is hereby created as a trust fund in the State Treasury.

2. The State Treasurer shall deposit in the Fund:

(a) Any money received from any commercial or correctional activities relating to the use of the modern structures, buildings and other property of the Nevada State Prison ~~;~~ and

(b) Any ~~other~~ gifts, grants or donations of money the State Treasurer receives from any person who wishes to contribute to the Fund.

↪ The money described in paragraphs (a) and (b) must be accounted for separately.

3. The interest and income earned on the money in the Fund must be credited to the Fund.

4. The Fund must be administered by the Silver State Industries Division of the Department, ~~of Corrections.~~

~~4. 5.~~ Except as otherwise provided in subsection ~~5.1~~ 6, the money in the Fund must only be used for the purposes set forth in this subsection.

~~[Any interest earned on money in the Fund must be credited to the Fund.]~~

The money which represents the reserved principal of the Fund, in an amount not to exceed \$100,000, must not be spent ~~;~~ and, except as otherwise provided in subsection ~~5.1~~ 6, only the money which represents the principal in excess of \$100,000 and the interest earned on the principal may be used to carry out the provisions of this section. The Silver State Industries Division may use:

(a) In addition to any interest earned on the principal of the Fund, not more than 50 percent of the money received during a fiscal year from any commercial or correctional activities relating to the use of the modern structures, buildings and other property of the Nevada State Prison for the maintenance of the modern structures, buildings and other property of the Nevada State Prison; and

(b) Not more than 10 percent of the interest earned on the principal of the Fund to pay administrative costs.

~~5.1~~ 6. At the end of each fiscal year, the State Treasurer shall transfer from the Silver State Industries Endowment Fund to the Endowment Fund for the Historic Preservation of the Nevada State Prison created by section 6 of this act 50 percent of all the money received during the fiscal year from any commercial or correctional activities relating to the use of the modern structures, buildings and other property of the Nevada State Prison and deposited into and remaining in the Silver State Industries Endowment Fund, other than the money which represents the reserved principal of the Silver State Industries Endowment Fund.

~~6.1~~ or any interest earned on the principal.

7. As used in this section, "modern structures, buildings and other property of the Nevada State Prison" means the structures, buildings and other property of the Nevada State Prison which the State Land Registrar assigns for administration to the Silver State Industries Division of the Department of Corrections pursuant to described in paragraph (a) of subsection 1 of section 2 of this act.

Sec. 5. Chapter 381 of NRS is hereby amended by adding thereto the provisions set forth as sections 6, 7 and 8 of this act.

Sec. 6. 1. The Endowment Fund for the Historic Preservation of the Nevada State Prison is hereby created as a trust fund in the State Treasury.

2. The State Treasurer shall deposit in the Fund:

(a) Any money received from any commercial or tourist enterprises relating to the use of the historic structures, buildings and other property of the Nevada State Prison as a historical, cultural, educational and scientific resource, except for any administrative expenses of a nonprofit corporation retained by the corporation pursuant to section 7 of this act.

(b) At the end of each fiscal year, the money required by subsection 6 of section 4 of this act to be transferred from the Silver State Industries Endowment Fund created by that section, other than the money which represents the reserved principal of the Silver State Industries Endowment Fund.

(c) Any other gifts, grants or donations of money the State Treasurer receives from any person who wishes to contribute to the Fund.

3. The interest and income earned on the money in the Fund must be credited to the Fund.

4. The Fund must be administered by the agency to which the historic structures, buildings and other property of the Nevada State Prison are assigned for administration pursuant to section 2 of this act, in consultation with the Board and the Nevada State Prison Preservation Society or its successor.

5. The money in the Fund must only be used for the purposes of the operation, maintenance and preservation of the historic structures, buildings and other property of the Nevada State Prison as a historical, cultural, educational and scientific resource. The money which represents

the reserved principal of the Fund, in an amount not to exceed \$100,000, must not be spent, and only the money which represents the principal in excess of \$100,000 and the interest earned on the principal may be used to carry out the provisions of this section. The agency that administers the Fund may use not more than 10 percent of the interest earned on the principal of the Fund to pay administrative costs.

Sec. 7. 1. The Department of Corrections and, as soon as practicable after the date of the assignment, any other state agency that receives an assignment from the State Land Registrar of the historic structures, buildings and other property of the Nevada State Prison pursuant to section 2 of this act may grant a special use permit to or enter into an agreement with the Nevada State Prison Preservation Society, or any successor or similar nonprofit corporation, authorizing the corporation to conduct tours and engage in other commercial and tourist activities relating to the historic structures, buildings and other property of the Nevada State Prison.

2. Any permit or agreement granted or entered into pursuant to this section must:

(a) Be for a term of 2 years;

(b) Be renewable as provided in the permit or agreement;

(c) Authorize the corporation to charge and collect reasonable fees or solicit and collect donations for its activities;

(d) Require the corporation to pay the income from such fees and donations, less the reasonable administrative expenses incurred by the corporation, to the State Treasurer for deposit in the Endowment Fund for the Historic Preservation of the Nevada State Prison created by section 6 of this act; and

(e) Provide that any income received by the corporation from membership fees, the sale of merchandise of the corporation or donations made to the corporation for purposes other than entry into or tours of the historic structures, buildings and other property at the Nevada State Prison belong solely to the corporation.

Sec. 8. 1. The Board shall establish a dedicated trust fund for the deposit of any money that becomes available from any public or private donation, sponsorship, gift or grant, other than:

(a) A grant of federal money; or

(b) Any money described in section 6 of this act.

2. The money in the trust fund established pursuant to this section must be used only for the further study and development of the historic structures, buildings and other property of the Nevada State Prison.

3. The trust fund established pursuant to this section must be administered by the Board in the manner provided by NRS 381.002 to 381.0037, inclusive, for the Division of Museums and History Dedicated Trust Fund established pursuant to NRS 381.0031, except that the trust fund established pursuant to this section must be administered in consultation with the agency to which the administration of the historic structures,

buildings and other property of the Nevada State Prison is assigned pursuant to section 2 of this act and the Nevada State Prison Preservation Society or its successor.

Sec. 9. NRS 381.001 is hereby amended to read as follows:

381.001 As used in this chapter, unless the context otherwise requires:

1. “Administrator” means the Administrator of the Division.
2. “Board” means the Board of Museums and History.
3. “Department” means the Department of Tourism and Cultural Affairs.
4. “Director” means the Director of the Department.
5. “Division” means the Division of Museums and History of the Department.

6. **“Historic structures, buildings and other property of the Nevada State Prison” means the structures, buildings and other property described in paragraph (b) of subsection 1 of section 2 of this act.**

7. “Institution” means an institution of the Division established pursuant to NRS 381.004.

~~{7.}~~ 8. “Museum director” means the executive director of an institution of the Division appointed by the Administrator pursuant to NRS 381.0062.

Sec. 10. As soon as practicable after July 1, 2015, the Department of Corrections:

1. Shall begin to consult periodically with Carson City, the Department of Tourism and Cultural Affairs, the State Department of Conservation and Natural Resources and the Nevada State Prison Preservation Society to plan for the conversion of the Nevada State Prison located on East Fifth Street in Carson City into a historical, cultural, educational and scientific destination.

2. May grant a special use permit or enter into an agreement pursuant to section 7 of this act.

~~{Sec. 5.}~~ **Sec. 11.** This act becomes effective on July 1, 2015.

Assemblywoman Titus moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 378.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 478.

SUMMARY—~~{Makes various changes relating to education.}~~ **Revises provisions governing the financial support of charter schools.**
(BDR 34-807)

AN ACT relating to education; ~~{eliminating the class size reduction program; creating the Fund for Master Teachers to support a program of incentive pay for teachers, to be administered by the Department of Education; establishing requirements for the program of incentive pay; revising provisions governing the discipline and discharge of public school teachers and~~

~~administrators; generally abolishing the distinction between probationary and postprobationary employment for teachers and administrators; making an appropriation; revising provisions governing the financial support of charter schools; and providing other matters properly relating thereto.~~

Legislative Counsel's Digest:

~~Existing law requires the State Board of Education to establish by regulation the maximum pupil teacher ratio in each grade and for each subject matter taught in each school district in this State. (NRS 387.123) Generally, the ratio of pupils to teachers in kindergarten and grades 1, 2 and 3 must not exceed a specified ratio, and each school district must develop a plan to reduce the ratio within the limits of available financial support. (NRS 388.700-388.725) Sections 3-5, 12, 13 and 18 of this bill repeal those provisions and eliminate existing references to them.~~

~~Section 7 of this bill creates the Fund for Master Teachers and directs the Department of Education to establish a program of incentive pay for licensed classroom teachers who have demonstrated exemplary teaching performance. Under the program, a teacher who enters into a contract with the Department to teach in an at-risk school and provide training and mentoring to other teachers must be paid an annual stipend of not less than \$150,000 nor more than \$200,000, less the salary and monetary benefits otherwise payable to the teacher by the school district in which the teacher is employed. Section 15 of this bill makes an appropriation to the Fund for the support of the program. Section 16 of this bill directs the Department to establish the program as soon as practicable after July 1, 2015, for the purpose of having teachers in their new assignments as soon as practicable after January 1, 2016.~~

~~Existing law provides for the evaluation, discipline and discharge of public school teachers and administrators. (NRS 391.311-391.3197) Generally, during a 3 year period, probationary teachers and administrators are subject to more intensive evaluation, have no right to continued employment after any school year, and have limited procedural rights if they are suspended or dismissed during a school year. (NRS 391.3125, 391.3127, 391.3128, 391.3197) The admonition, demotion, suspension, dismissal and nonreemployment provisions that apply to postprobationary teachers and administrators are generally inapplicable to probationary teachers and administrators. (NRS 391.3115) However, existing law provides that a collective bargaining agreement supersedes these statutory provisions if the agreement contains provisions relating to dismissal and nonreemployment. (NRS 391.3116) Section 10 of this bill generally eliminates the existing distinctions between probationary and postprobationary employees, except for the purposes of the evaluation requirements applicable to them. Notwithstanding the provisions of any collective bargaining agreement or contract of employment to the contrary, section 10 provides that a postprobationary employee has no status or rights of employment different from those of a probationary employee and may be denied reemployment after any school year. Section 10 also provides that a probationary or~~

~~postprobationary employee may be suspended without pay or dismissed before the completion of a school year for just cause or any cause specified by statute. The provisions of existing law setting forth specific grounds for discipline and discharge, requiring a written admonition and providing for a hearing before a hearing officer are repealed by section 18.]~~ includes the count of pupils enrolled in a charter school for purposes of the apportionments and allowances provided pursuant to the basic support guarantee from the State Distributive School Account and provides that a charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the charter school or the pupils enrolled in the charter school are eligible to receive. (NRS 386.570) This bill revises the provisions governing the eligibility of a charter school for money other than that provided pursuant to the basic support guarantee from the State Distributive School Account to provide that a charter school is entitled to receive its proportionate share, on a per pupil basis, of any other money provided for other public schools from federal, state or local sources.

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

Section 1. ~~[NRS 386.365 is hereby amended to read as follows:~~

~~— 386.365 — 1. Except as otherwise provided in subsection 3, each board of trustees in any county having a population of 100,000 or more shall give 15 days' notice of its intention to adopt, repeal or amend a policy or regulation of the board concerning any of the subjects set forth in subsection 4. The notice must:~~

~~— (a) Include a description of the subject or subjects involved and must state the time and place of the meeting at which the matter will be considered by the board; and~~

~~— (b) Be mailed to the following persons from each of the schools affected:~~

~~— (1) The principal;~~

~~— (2) The president of the parent-teacher association or similar body; and~~

~~— (3) The president of the classroom teachers' organization or other collective bargaining agent.~~

~~— A copy of the notice and of the terms of each proposed policy or regulation, or change in a policy or regulation, must be made available for inspection by the public in the office of the superintendent of schools of the school district at least 15 days before its adoption.~~

~~— 2. All persons interested in a proposed policy or regulation or change in a policy or regulation must be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing. The board of trustees shall consider all written and oral submissions respecting the proposal or change before taking final action.~~

~~— 3. Emergency policies or regulations may be adopted by the board upon its own finding that an emergency exists.~~

~~4. This section applies to policies and regulations concerning:~~
~~(a) Attendance rules;~~
~~(b) Zoning;~~
~~(c) Grading;~~
~~(d) District staffing patterns;~~
~~(e) Curriculum and program;~~
~~(f) Pupil discipline; and~~
~~(g) Personnel, except with respect to dismissals and refusals to reemploy covered by contracts entered into as a result of the Local Government Employee Management Relations Act . [, as provided in NRS 391.3116.]]~~
(Deleted by amendment.)

Sec. 2. ~~[NRS 386.595 is hereby amended to read as follows:~~

~~386.595 1. All employees of a charter school shall be deemed public employees.~~

~~2. The governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the governing body may make all employment decisions with regard to its employees pursuant to NRS 391.311 to 391.3197, inclusive . [, unless a collective bargaining agreement entered into by the governing body pursuant to chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.]~~

~~3. Upon the request of the governing body of a charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.~~

~~4. Except as otherwise provided in this subsection, if the written charter of a charter school is revoked or a charter contract is terminated, as applicable, or if a charter school ceases to operate as a charter school, the licensed employees of the charter school must be reassigned to employment within the school district in accordance with the applicable collective bargaining agreement. A school district is not required to reassign a licensed employee of a charter school pursuant to this subsection if the employee:~~

~~(a) Was not granted a leave of absence by the school district to accept employment at the charter school pursuant to subsection 5;~~

~~(b) Was granted a leave of absence by the school district and did not submit a written request to return to employment with the school district in accordance with subsection 5; or~~

~~(c) Does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal~~

of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school.

~~5. The board of trustees of a school district shall grant a leave of absence, not to exceed 3 years, to any licensed employee who is employed by the board of trustees who requests such a leave of absence to accept employment with a charter school. After the first school year in which a licensed employee is on a leave of absence, the employee may return to a comparable teaching position with the board of trustees. After the third school year, a licensed employee shall either submit a written request to return to a comparable teaching position or resign from the position for which the employee's leave was granted. The board of trustees shall grant a written request to return to a comparable position pursuant to this subsection even if the return of the licensed employee requires the board of trustees to reduce the existing workforce of the school district. The board of trustees is not required to accept the return of the licensed employee if the employee does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school. The board of trustees may require that a request to return to a comparable teaching position submitted pursuant to this subsection be submitted at least 90 days before the employee would otherwise be required to report to duty.~~

~~6. Upon the request of the board of trustees of a school district, the governing body of a charter school shall, with the permission of the licensed employee who is granted a leave of absence from the school district pursuant to this section, transmit to the school district a copy of the employment record of the employee that is maintained by the charter school before the return of the employee to employment with the school district pursuant to subsection 4 or 5. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the charter school and any disciplinary action taken by the charter school against the licensed employee. Before the return of the licensed employee, the board of trustees of the school district may conduct an investigation into any misconduct of the licensed employee during the leave of absence from the school district and take any appropriate disciplinary action as to the status of the person as an employee of the school district, including, without limitation:~~

~~(a) The dismissal of the employee from employment with the school district; or~~

~~(b) Upon the employee's return to employment with the school district, documentation of the disciplinary action taken against the employee into the employment record of the employee that is maintained by the school district.~~

~~7. If a school district conducts an investigation pursuant to subsection 6:~~

~~(a) The licensed employee is not entitled to return to employment with the school district until the investigation is complete; and~~

~~(b) The investigation must be conducted within a reasonable time.~~

~~8. A licensed employee who is on a leave of absence from a school district pursuant to this section:~~

~~(a) Shall contribute to and be eligible for all benefits for which the employee would otherwise be entitled, including, without limitation, participation in the Public Employees' Retirement System and accrual of time for the purposes of leave and retirement.~~

~~(b) Continues, while the employee is on leave, to be covered by the collective bargaining agreement of the school district only with respect to any matter relating to his or her status or employment with the district.~~

~~→ The time during which such an employee is on a leave of absence and employed in a charter school does not count toward the acquisition of permanent status with the school district.~~

~~9. Upon the return of a teacher to employment in the school district, the teacher is entitled to the same level of retirement, salary and any other benefits to which the teacher would otherwise be entitled if the teacher had not taken a leave of absence to teach in a charter school.~~

~~10. An employee of a charter school who is not on a leave of absence from a school district is eligible for all benefits for which the employee would be eligible for employment in a public school, including, without limitation, participation in the Public Employees' Retirement System.~~

~~11. For all employees of a charter school:~~

~~(a) The compensation that a teacher or other school employee would have received if he or she were employed by the school district must be used to determine the appropriate levels of contribution required of the employee and employer for purposes of the Public Employees' Retirement System.~~

~~(b) The compensation that is paid to a teacher or other school employee that exceeds the compensation that the employee would have received if he or she were employed by the school district must not be included for the purposes of calculating future retirement benefits of the employee.~~

~~12. If the board of trustees of a school district in which a charter school is located manages a plan of group insurance for its employees, the governing body of the charter school may negotiate with the board of trustees to participate in the same plan of group insurance that the board of trustees offers to its employees. If the employees of the charter school participate in the plan of group insurance managed by the board of trustees, the governing body of the charter school shall:~~

~~(a) Ensure that the premiums for that insurance are paid to the board of trustees; and~~

~~(b) Provide, upon the request of the board of trustees, all information that is necessary for the board of trustees to provide the group insurance to the employees of the charter school. (Deleted by amendment.)~~

~~Sec. 3. [NRS 386.740 is hereby amended to read as follows:~~

~~386.740 1. Each empowerment plan for a school must:~~

~~(a) Set forth the manner by which the school will be governed;~~

~~—(b) Set forth the proposed budget for the school, including, without limitation, the cost of carrying out the empowerment plan, and the manner by which the money apportioned to the school will be administered;~~

~~—(c) Prescribe the academic plan for the school, including, without limitation, the manner by which courses of study will be provided to the pupils enrolled in the school and any special programs that will be offered for pupils;~~

~~—(d) Prescribe the manner by which the achievement of pupils will be measured and reported for the school, including, without limitation, the results of the pupils on the examinations administered pursuant to NRS 389.550 and, if applicable for the grade levels of the empowerment school, the end-of-course examinations administered pursuant to NRS 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807;~~

~~—(e) Prescribe the manner by which teachers and other licensed educational personnel will be selected and hired for the school, which must be determined and negotiated pursuant to chapter 288 of NRS;~~

~~—(f) Prescribe the manner by which all other staff for the school will be selected and hired, which must be determined and negotiated pursuant to chapter 288 of NRS;~~

~~—(g) Indicate whether the empowerment plan will offer an incentive pay structure for staff and a description of that pay structure, if applicable;~~

~~—(h) Indicate the intended ratio of pupils to teachers at the school, designated by grade level ; [, which must comply with NRS 388.700 or 388.720, as applicable;]~~

~~—(i) Provide a description of the professional development that will be offered to the teachers and other licensed educational personnel employed at the school;~~

~~—(j) Prescribe the manner by which the empowerment plan will increase the involvement of parents and legal guardians of pupils enrolled in the school;~~

~~—(k) Comply with the plan to improve the achievement of the pupils enrolled in the school prepared pursuant to NRS 385.357;~~

~~—(l) Address the specific educational needs and concerns of the pupils who are enrolled in the school; and~~

~~—(m) Set forth the calendar and schedule for the school.~~

~~—2. If the empowerment plan includes an incentive pay structure, that pay structure must:~~

~~—(a) Provide an incentive for all staff employed at the school;~~

~~—(b) Set forth the standards that must be achieved by the pupils enrolled in the school and any other measurable objectives that must be met to be eligible for incentive pay; and~~

~~—(c) Be in addition to the salary or hourly rate of pay negotiated pursuant to chapter 288 of NRS that is otherwise payable to the employee.~~

~~—3. An empowerment plan may:~~

~~—(a) Request a waiver from a statute contained in this title or a regulation of the State Board or the Department.~~

~~—(b) Identify the services of the school district which the school wishes to receive, including, without limitation, professional development, transportation, food services and discretionary services. Upon approval of the empowerment plan, the school district may deduct from the total apportionment to the empowerment school the costs of such services.~~

~~—4. For purposes of determining the budget pursuant to paragraph (b) of subsection 1, if a public school which converts to an empowerment school is~~

~~as~~

~~—(a) Charter school, the amount of the budget is the amount equal to the apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, and its proportionate share of any other money available from federal, state or local sources that the school or the pupils enrolled in the school are eligible to receive.~~

~~—(b) Public school, other than a charter school, the empowerment team for the school shall have discretion of 90 percent of the amount of money from the state financial aid and local funds that the school district apportions for the school, without regard to any line item specifications or specific uses determined advisable by the school district, unless the empowerment team determines that a lesser amount is necessary to carry out the empowerment plan.~~ **(Deleted by amendment.)**

Sec. 4. {NRS 387.123 is hereby amended to read as follows:

~~—387.123 1. The count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, and pupils who are enrolled in a university school for profoundly gifted pupils located in the county, for:~~

~~—(a) Pupils in the kindergarten department.~~

~~—(b) Pupils in grades 1 to 12, inclusive.~~

~~—(c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive.~~

~~—(d) Pupils who reside in the county and are enrolled part time in a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.~~

~~—(e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.~~

~~—(f) Pupils who are enrolled in classes pursuant to subsection 5 of NRS 386.560 and pupils who are enrolled in classes pursuant to subsection 5 of NRS 386.580.~~

~~—(g) Pupils who are enrolled in classes pursuant to subsection 3 of NRS 392.070.~~

~~—(h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).~~

~~—2. The State Board shall establish uniform regulations for counting enrollment and calculating the average daily attendance of pupils. In establishing such regulations for the public schools, the State Board:~~

~~—(a) Shall divide the school year into 10 school months, each containing 20 or fewer school days, or its equivalent for those public schools operating under an alternative schedule authorized pursuant to NRS 388.090.~~

~~—(b) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.~~

~~—(c) Shall prohibit the counting of any pupil specified in subsection 1 more than once.~~

~~—[3. Except as otherwise provided in subsection 4 and NRS 388.700, the State Board shall establish by regulation the maximum pupil teacher ratio in each grade, and for each subject matter wherever different subjects are taught in separate classes, for each school district of this State which is consistent with:~~

~~—(a) The maintenance of an acceptable standard of instruction;~~

~~—(b) The conditions prevailing in the school district with respect to the number and distribution of pupils in each grade; and~~

~~—(c) Methods of instruction used, which may include educational television, team teaching or new teaching systems or techniques.~~

~~—* If the Superintendent of Public Instruction finds that any school district is maintaining one or more classes whose pupil teacher ratio exceeds the applicable maximum, and unless the Superintendent finds that the board of trustees of the school district has made every reasonable effort in good faith to comply with the applicable standard, the Superintendent shall, with the approval of the State Board, reduce the count of pupils for apportionment purposes by the percentage which the number of pupils attending those classes is of the total number of pupils in the district, and the State Board may direct the Superintendent to withhold the quarterly apportionment entirely.~~

~~—4. The provisions of subsection 3 do not apply to a charter school, a university school for profoundly gifted pupils or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.~~ **H (Deleted by amendment.)**

Sec. 5. [NRS 387.304 is hereby amended to read as follows:

~~—387.304 The Department shall:~~

~~—1. Conduct an annual audit of the count of pupils for apportionment purposes reported by each school district pursuant to NRS 387.123, [and the data reported by each school district pursuant to NRS 388.710 that is used to measure the effectiveness of the implementation of a plan developed by each school district to reduce the pupil teacher ratio as required by NRS 388.720.]~~

~~2. Review each school district's report of the annual audit conducted by a public accountant as required by NRS 354.624, and the annual report prepared by each district as required by NRS 387.303, and report the findings of the review to the State Board and the Legislative Committee on Education, with any recommendations for legislation, revisions to regulations or training needed by school district employees. The report by the Department must identify school districts which failed to comply with any statutes or administrative regulations of this State or which had any:~~

- ~~— (a) Long term obligations in excess of the general obligation debt limit;~~
- ~~— (b) Deficit fund balances or retained earnings in any fund;~~
- ~~— (c) Deficit cash balances in any fund;~~
- ~~— (d) Variances of more than 10 percent between total general fund revenues and budgeted general fund revenues; or~~
- ~~— (e) Variances of more than 10 percent between total actual general fund expenditures and budgeted total general fund expenditures.~~

~~3. In preparing its biennial budgetary request for the State Distributive School Account, consult with the superintendent of schools of each school district or a person designated by the superintendent.~~

~~4. Provide, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, training to the financial officers of school districts in matters relating to financial accountability.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 388.529 is hereby amended to read as follows:~~

~~388.529 In addition to any penalty prescribed by specific statute, a person who intentionally uses aversive intervention on a pupil with a disability or intentionally violates NRS 388.527 is subject to disciplinary action pursuant to NRS [391.31297 or] 391.330 .[, or both.]] (Deleted by amendment.)~~

Sec. 7. ~~[Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. There is hereby created the Fund for Master Teachers, to be administered by the Department in accordance with the provisions of this section. The Department may accept gifts and grants from any source for deposit in the Fund. The cost of the program of incentive pay established pursuant to this section, including, without limitation, the stipends paid to teachers participating in the program, must be paid from the Fund.~~

~~2. The Department shall establish a program of incentive pay meeting the requirements of this section for each licensed teacher who:~~

- ~~— (a) Has been employed as a licensed teacher for not less than 3 years;~~
- ~~— (b) Has demonstrated exemplary teaching performance during his or her employment, as determined pursuant to subsection 3; and~~
- ~~— (c) Enter into a written contract with the Department pursuant to which the teacher agrees during the term of the contract to:~~

~~— (1) Accept assignment to a school which is at risk, as identified by the Department pursuant to subsection 8 of NRS 391.166 for the purposes of that section; and~~

~~—(2) Provide training and mentoring to probationary teachers and teachers who have, at any time during the immediately preceding 2 years of their employment, received an evaluation rating the overall performance of the teacher as minimally effective, ineffective, below average or otherwise unsatisfactory.~~

~~—3. On or before March 1 of each year, from among the teachers employed by the board of trustees of each school district who are assigned full time to provide classroom instruction to pupils and who meet the requirements of paragraph (a) of subsection 2, the board of trustees of the school district shall select those teachers who constitute the top performing 5 percent of all the teachers employed by the board of trustees. The selection of each teacher must be made in consultation with the licensed employees of the board of trustees, giving consideration to:~~

~~—(a) The evaluations received by the teacher during his or her employment;~~

~~—(b) The academic achievement of pupils taught by the teacher during his or her employment;~~

~~—(c) Professional awards received or certifications held by the teacher, including, without limitation, certification by the National Board for Professional Teaching Standards; and~~

~~—(d) Recommendations from other teachers, students and parents.~~

~~→ Each teacher so selected must be designated by the board of trustees as a master teacher.~~

~~—4. On or before March 15 of each year, the board of trustees of each school district shall notify each teacher selected pursuant to subsection 3 of his or her designation as a master teacher and the eligibility of the teacher to participate in the program of incentive pay established pursuant to this section. The board of trustees shall include with the notice written information in the form prescribed by the Department about the program of incentive pay. This information must include, without limitation, a description of the contractual requirements applicable to participants in the program.~~

~~—5. On or before April 15 of each year, any teacher who has been designated as a master teacher pursuant to subsection 3 or who has been so designated within the immediately preceding 2 years and who otherwise meets the requirements of subsection 2 may submit an application in writing to the Department to participate in the program of incentive pay. The application must include information provided by the school district in which the teacher is employed, attesting to the total annual amount of salary and monetary benefits currently being paid to the teacher.~~

~~—6. On or before June 1 of each year, within the limits of money available in the Fund, the Department shall select from among the applicants those teachers who will participate in the program of incentive pay during the next ensuing school year. Subject to the limitations of this subsection, the selection of teachers to participate and the amount of the stipend paid to each~~

~~teacher during his or her participation in the program are within the sole discretion of the Department.~~

~~7. On or before June 10 of each year, the Department shall give written notice of the selection to each teacher described in subsection 6. The Department shall include with the notice:~~

~~(a) A statement of the amount of the stipend to be paid to the teacher during his or her participation in the program if he or she agrees to participate; and~~

~~(b) A form of contract meeting the requirements of subsection 2.~~

~~8. If a teacher notified pursuant to subsection 7 fails to sign and return the contract within 20 days after the date of the notice, the Department shall give a similar notice to another applicant until contracts have been signed by all the participants in the program for whom money is available in the Fund.~~

~~9. During his or her participation in the program and while he or she continues to perform his or her obligations under the contract to the satisfaction of the Department, each teacher who participates in the program is entitled to receive a stipend to be paid to the teacher biweekly by the Department. The amount of the stipend must be computed so that the combined annual amount of the stipend and the salary and monetary benefits paid to a teacher by the school district in which the teacher is employed is not less than \$150,000 and not more than \$200,000. The amount of salary and monetary benefits otherwise payable to a teacher must not be reduced because of his or her participation in the program.~~

~~10. Each school district shall cooperate with the Department in effectuating the purposes of the program.~~

~~11. The provisions of chapter 298 of NRS do not apply to any aspect of the program established pursuant to this section, including, without limitation, the selection of teachers eligible to participate in the program, the assignment of teachers to schools pursuant to the program and the stipend paid to participants in the program.~~

~~12. The Department may adopt regulations to carry out the provisions of this section.~~ (Deleted by amendment.)

Sec. 8. [NRS 391.311 is hereby amended to read as follows:

~~391.311 As used in NRS 391.311 to 391.3197, inclusive, unless the context otherwise requires:~~

~~1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.~~

~~2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, is employed.~~

~~3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.~~

~~4. ["Immorality" means:~~

~~— (a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, except an act forbidden by NRS 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or~~

~~— (b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, “sexual conduct” has the meaning ascribed to it in NRS 201.520.~~

~~— [5.] “Postprobationary employee” means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment. The term does not include a person who is deemed to be a probationary employee pursuant to NRS 391.3129.~~

~~— [6.] 5. “Probationary employee” means:~~

~~— (a) An administrator or a teacher who is employed [for] during the probationary period set forth in NRS 391.3197; and~~

~~— (b) A person who is deemed to be a probationary employee pursuant to NRS 391.3129.~~

~~— [7.] 6. “Superintendent” means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.~~

~~— [8.] 7. “Teacher” means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.] (Deleted by amendment.)~~

Sec. 9. [NRS 391.3115 is hereby amended to read as follows:

~~391.3115 1. [The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, do not apply to:~~

~~— (a) Substitute teachers; or~~

~~— (b) Adult education teachers.~~

~~2. The admonition, demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3194, inclusive, do not apply to:~~

~~— (a) A probationary teacher.] The policy for evaluations prescribed in NRS [391.3125] 391.3127 and 391.3128 applies to [a probationary teacher.~~

~~— (b)]—~~

~~— (a) A new employee who is employed as a probationary administrator primarily to provide administrative services at the school level and not primarily to provide direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal. [The policy for evaluations prescribed in NRS 391.3127 and 391.3128 applies to such a probationary administrator.~~

~~3. The admonition, demotion and suspension provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a]~~

~~— (b) A postprobationary teacher who is employed as a probationary administrator primarily to provide administrative services at the school level~~

and not primarily to provide direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal, with respect to his or her employment in the administrative position. [The policy for evaluations prescribed in NRS 391.3127 and 391.3128 applies to such a probationary administrator.

~~4.] 2. The provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.~~

~~[5.] 3. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation. [and during that time the provisions of NRS 391.311 to 391.3197, inclusive, for demotion, suspension or dismissal apply to them.]~~ **(Deleted by amendment.)**

Sec. 10. [NRS 391.3197 is hereby amended to read as follows:

~~391.3197 Notwithstanding any provision of a collective bargaining agreement or a contract of employment to the contrary:~~

~~1. [A probationary employee] An administrator or teacher is employed on a contract basis [for three 1 year periods] from year to year and has no right to employment after any [of the three probationary contract years.] school year. Except as otherwise provided in NRS 391.3129 and 391.31965, an administrator or teacher is a probationary employee until he or she completes a 3 year probationary period and attains postprobationary status in accordance with this section. Except as otherwise provided in NRS 391.3125, 391.3127 and 391.3128, as applicable, a postprobationary employee has no status or rights of employment different from the status or rights of employment of a probationary employee.~~

~~2. The board shall notify each probationary and postprobationary employee in writing on or before May 1 of [the first, second and third school years of the employee's probationary period, as appropriate,] each school year whether the employee is to be reemployed for the [second or third year of the probationary period or for the fourth school year as a postprobationary employee.] next ensuing school year. Failure of the board to notify [the] a probationary employee in writing on or before May 1 in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing on or before May 10 of the [first, second or third year of the employee's probationary period, as appropriate, of the] employee's acceptance of reemployment. If a probationary or postprobationary employee is assigned to a school that~~

~~operates all year, the board shall notify the employee in writing, [in the first, second and third years of the employee's probationary period,] no later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the [second or third year of the probationary period or for the fourth school year as a postprobationary employee.] **next ensuing school year.** Failure of the board to notify a probationary employee in writing within the prescribed period in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing within 10 days after the date of notification of his or her acceptance or rejection of reemployment for another year. Failure to advise the board of the employee's acceptance of reemployment pursuant to this subsection constitutes rejection of the contract.~~

~~3. A probationary employee who:~~

~~(a) Completes a 3 year probationary period;~~

~~(b) Receives a designation of "highly effective" or "effective" on each of his or her performance evaluations for 2 consecutive school years; and~~

~~(c) Receives a notice of reemployment from the school district in the third year of the employee's probationary period,~~

~~→ is entitled to be a postprobationary employee in the ensuing year of employment.~~

~~4. If a probationary **or postprobationary** employee is notified that the employee will not be reemployed for the school year following the [3 year probationary period,] **end of the current school year**, his or her employment ends on the last day of the current school year. The notice that the employee will not be reemployed must include a statement of the reasons for that decision.~~

~~5. A new employee who is employed as an administrator to provide primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, or a postprobationary teacher who is employed as an administrator to provide those administrative services shall be deemed to be a probationary employee for the purposes of this section and must serve a 3 year probationary period as an administrator in accordance with the provisions of this section. If:~~

~~(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after any year ; [of his or her probationary period,] and~~

~~(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,~~

~~→ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.~~

~~6. An administrator who has completed his or her probationary period pursuant to subsection 5 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If an administrator is promoted to the position of principal before completion of his or her probationary period pursuant to subsection 5, the administrator must serve the remainder of his or her probationary period pursuant to subsection 5 or an additional probationary period of 1 year in the position of principal, whichever is longer. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the probationary period or additional probationary period, as applicable, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.~~

~~7. A probationary or postprobationary employee may be suspended without pay or dismissed before the completion of the current school year for just cause or any cause specified by statute. If [a probationary] an employee receives notice that he or she will be suspended without pay or dismissed, [before the completion of the current school year,] the [probationary] employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization. (Deleted by amendment.)~~

Sec. 11. ~~[NRS 391.350 is hereby amended to read as follows:~~

~~391.350 1. Any teacher or other licensed employee employed by any board for a specified time who willfully refuses or fails to fulfill his or her employment obligations after the employee has notified the board of his or her acceptance of employment under [subsection 3 of NRS 391.3196 or] subsection 2 of NRS 391.3197 or to comply with the provisions of his or her contract after it has been signed without first obtaining the written consent of the board may be found guilty of unprofessional conduct. The board shall not unreasonably withhold its consent. Any administrator who willfully secures the signature on a statement of intent to accept employment of any teacher or other licensed employee who has notified the board of another school district in this State of his or her acceptance of employment is guilty of unprofessional conduct, unless the employee has first obtained the written consent of the board to which he or she has given notice of acceptance. If the failure or refusal to comply with the provisions of the contract is the result of having subsequently executed an employment contract with another board in this State without the written consent of the board first employing him or her, the second contract is void.~~

~~2. Upon receiving a formal complaint from the board, substantiated by conclusive evidence of a teacher's failure or refusal under subsection 1 or that~~

~~an administrator has willfully secured such a signature, the State Board may suspend or revoke the license of the teacher or administrator after notice and opportunity for a hearing have been provided pursuant to NRS 391.322 and 391.323.~~

~~3. The Superintendent of Public Instruction shall notify state agencies for education in other states of any revocation pursuant to this section. (Deleted by amendment.)~~

~~Sec. 12. [NRS 218E.615 is hereby amended to read as follows:~~

~~218E.615 The Committee may:~~

~~1. Evaluate, review and comment upon issues related to education within this State, including, but not limited to:~~

~~(a) Programs to enhance accountability in education;~~

~~(b) Legislative measures regarding education;~~

~~(c) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the statewide system of accountability for public schools;~~

~~(d) Methods of financing public education;~~

~~(e) The condition of public education in the elementary and secondary schools;~~

~~(f) [The program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;~~

~~(g)] The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and~~

~~[(h)] (g) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.~~

~~2. Conduct investigations and hold hearings in connection with its duties pursuant to this section and exercise any of the investigative powers set forth in NRS 218E.105 to 218E.140, inclusive.~~

~~3. Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.~~

~~4. Make recommendations to the Legislature concerning the manner in which public education may be improved. (Deleted by amendment.)~~

~~Sec. 13. [NRS 218E.625 is hereby amended to read as follows:~~

~~218E.625 1. The Legislative Bureau of Educational Accountability and Program Evaluation is hereby created within the Fiscal Analysis Division. The Fiscal Analysts shall appoint to the Legislative Bureau of Educational Accountability and Program Evaluation a Chief and such other personnel as the Fiscal Analysts determine are necessary for the Bureau to carry out its duties pursuant to this section.~~

~~2. The Bureau shall, as the Fiscal Analysts determine is necessary or at the request of the Committee:~~

~~(a) Collect and analyze data and issue written reports concerning:~~

~~(1) The effectiveness of the provisions of NRS 385.3455 to 385.3891, inclusive, in improving the accountability of the schools of this State;~~

~~— (2) [The statewide program to reduce the ratio of pupils per class per licensed teacher prescribed in NRS 388.700, 388.710 and 388.720;~~

~~— (3)] The statewide program to educate persons with disabilities that is set forth in chapter 395 of NRS;~~

~~— [(4)] (3) The results of the examinations of the National Assessment of Educational Progress that are administered pursuant to NRS 389.012; and~~

~~— [(5)] (4) Any program or legislative measure, the purpose of which is to reform the system of education within this State.~~

~~— (b) Conduct studies and analyses to evaluate the performance and progress of the system of public education within this State. Such studies and analyses may be conducted:~~

~~— (1) As the Fiscal Analysts determine are necessary; or~~

~~— (2) At the request of the Legislature.~~

~~→ This paragraph does not prohibit the Bureau from contracting with a person or entity to conduct studies and analyses on behalf of the Bureau.~~

~~— (c) On or before October 1 of each even numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the Director for transmission to the next regular session. The Bureau shall, on or before October 1 of each odd numbered year, submit a written report of its findings pursuant to paragraphs (a) and (b) to the Director for transmission to the Legislative Commission and to the Legislative Committee on Education.~~

~~— 3. The Bureau may, pursuant to NRS 218F.620, require a school, a school district, the Nevada System of Higher Education or the Department of Education to submit to the Bureau books, papers, records and other information that the Chief of the Bureau determines are necessary to carry out the duties of the Bureau pursuant to this section. An entity whom the Bureau requests to produce records or other information shall provide the records or other information in any readily available format specified by the Bureau.~~

~~— 4. Except as otherwise provided in this subsection and NRS 239.0115, any information obtained by the Bureau pursuant to this section shall be deemed a work product that is confidential pursuant to NRS 218F.150. The Bureau may, at the discretion of the Chief and after submission to the Legislature or Legislative Commission, as appropriate, publish reports of its findings pursuant to paragraphs (a) and (b) of subsection 2.~~

~~— 5. This section does not prohibit the Department of Education or the State Board of Education from conducting analyses, submitting reports or otherwise reviewing educational programs in this State.] (Deleted by amendment.)~~

Sec. 14. [NRS 286.025 is hereby amended to read as follows:

~~— 286.025 1. Except as otherwise provided by specific statute, “compensation” is the salary paid to a member by the member’s principal public employer.~~

~~— 2. The term includes:~~

~~— (a) Base pay, which is the monthly rate of pay excluding all fringe benefits.~~

~~— (b) Additional payment.~~

~~— (1) As applicable to a member who has an effective date of membership before January 1, 2010, for longevity, shift differential, hazardous duty, work performed on a holiday if it does not exceed the working hours of the normal workweek or pay period for that employee, holding oneself ready for duty while off duty and returning to duty after one's regular working hours.~~

~~— (2) As applicable to a member who has an effective date of membership on or after January 1, 2010, for longevity, shift differential, hazardous duty, work performed on a holiday if it does not exceed the working hours of the normal workweek or pay period for that employee, and, holding oneself ready for duty while off duty and returning to duty within 12 hours after one's regular working hours to respond to an emergency. As used in this subparagraph, "emergency" means a sudden, unexpected occurrence that is declared by the governing body or chief administrative officer of the public employer to involve clear and imminent danger and require immediate action to prevent and mitigate the endangerment of lives, health or property.~~

~~— (c) Payment for extra duty assignments if it is the standard practice of the public employer to include such pay in the employment contract or official job description for the calendar or academic year in which it is paid and such pay is specifically included in the member's employment contract or official job description.~~

~~— (d) The aggregate compensation paid by two separate public employers if one member is employed half time or more by one, and half time or less by the other, if the total does not exceed full-time employment, if the duties of both positions are similar and if the employment is pursuant to a continuing relationship between the employers.~~

~~— (e) The stipend paid by the Department of Education to a participant in the program of incentive pay established by the Department pursuant to section 7 of this act.~~

~~— 3. The term does not include any type of payment not specifically described in subsection 2.] (Deleted by amendment.)~~

Sec. 15. ~~[1. There is hereby appropriated from the State General Fund to the Fund for Master Teachers created by section 7 of this act the following sums to support the program of incentive pay established by the Department of Education pursuant to section 7 of this act:~~

~~For the Fiscal Year 2015-2016..... \$41,156,278~~

~~For the Fiscal Year 2016-2017..... \$81,847,172~~

~~— 2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2016, and September 15, 2017, respectively by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before~~

~~September 16, 2016, and September 15, 2017, respectively.] (Deleted by amendment.)~~

~~Sec. 16. [1. The Department of Education shall establish the program of incentive pay required by section 7 of this act as soon as practicable after July 1, 2015, and in any event on or before September 1, 2015.~~

~~2. It is the intention of the Legislature that the program of incentive pay required by section 7 of this act must be implemented as soon as practicable during the 2015-2016 school year so that the benefits of the program may be realized by teachers and pupils during that school year. Accordingly, notwithstanding any provision of section 7 of this act to the contrary:~~

~~(a) The board of trustees of each school district shall make the initial selection of teachers required by subsection 3 of section 7 of this act on or before October 1, 2015, and give the notice required by subsection 4 of that section on or before October 5, 2015.~~

~~(b) Any teacher who has been designated as a master teacher and desires to participate in the program must submit to the Department the application required by subsection 5 of section 7 of this act on or before November 1, 2015.~~

~~(c) The Department shall make the selection and give the notice required by subsections 6 and 7 of section 7 of this act, respectively, on or before December 1, 2015.~~

~~(d) Any teacher who is offered a contract pursuant to subsection 7 of section 7 of this act must sign and return the contract on or before December 15, 2015.~~

~~(e) The Department and each school district in this State shall ensure that as many contracted teachers as practicable are working in their new assignments when classes resume after January 1, 2016.] (Deleted by amendment.)~~

~~Sec. 17. [Insofar as they conflict with the provisions of such an agreement, the amendatory provisions of this act do not apply during the current term of any contract of employment or any collective bargaining agreement entered into before July 1, 2015, but do apply to any extension or renewal of such an agreement and to any agreement entered into on or after July 1, 2015. For the purposes of this section, the term of an agreement ends on the date provided in the agreement, notwithstanding any provision of the agreement that it remains in effect, in whole or in part, after that date until a successor agreement becomes effective.] (Deleted by amendment.)~~

~~Sec. 18. [NRS 388.700, 388.710, 388.720, 388.725, 391.3116, 391.31297, 391.313, 391.314, 391.315, 391.3161, 391.317, 391.318, 391.3192, 391.31925, 391.3193, 391.3194 and 391.3196 are hereby repealed.] (Deleted by amendment.)~~

Sec. 19. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive

School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share **, on a per pupil basis,** of any other money ~~[available]~~ **provided for other public schools** from federal, state or local sources ~~, [that the school or the pupils who are enrolled in the school are eligible to receive.]~~ If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose. The State Board shall prescribe a process which ensures that all charter schools, regardless of the sponsor, have information about all sources of funding for the public schools provided through the Department, including local funds pursuant to NRS 387.1235.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in an account with a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of each school quarter, the Superintendent of Public Instruction shall pay to the sponsor of a charter school one-quarter of the yearly sponsorship fee for the administrative costs associated with sponsorship for that school quarter, which must be deducted from the quarterly apportionment to the charter school made pursuant to NRS 387.124. Except as otherwise provided in subsection 4, the yearly sponsorship fee for the sponsor of a charter school must be in an amount of money not to exceed 2 percent of the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124.

4. If the governing body of a charter school satisfies the requirements of this subsection, the governing body may submit a request to the sponsor of the charter school for approval of a sponsorship fee in an amount that is less than 2 percent but at least 1 percent of the total amount of money apportioned to the charter school during the school year pursuant to NRS 387.124. The sponsor of the charter school shall approve such a request if the sponsor of the charter school determines that the charter school satisfies the requirements of this subsection. If the sponsor of the charter school approves such a request, the sponsor shall provide notice of the decision to the governing body of the charter school and the Superintendent of Public Instruction. If the sponsor of the charter school denies such a request, the governing body of the charter school may appeal the decision of the sponsor to the Superintendent of Public Instruction. Upon appeal, the sponsor of the charter school and the governing body of the charter school are entitled to present evidence. The decision of the Superintendent of Public Instruction on the appeal is final and is not subject to judicial review. The governing body of a charter school may submit a request for a reduction of the sponsorship fee pursuant to this subsection if:

(a) The charter school satisfies the requirements of subsection 1 of NRS 386.5515; and

(b) There has been a decrease in the duties of the sponsor of the charter school that justifies a decrease in the sponsorship fee.

5. To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

6. If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

7. The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The State Public Charter School Authority may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

~~[Sec. 19.]~~ **Sec. 20.** This act becomes effective on July 1, 2015.

†

~~LEADLINES OF REPEALED SECTIONS~~

~~388.700 Reduction of ratio in certain grades; request for variance required for each school quarter under certain circumstances; quarterly report on variances submitted to Interim Finance Committee; additional reports by State Board and Department; exception to requirements for charter schools and distance education.~~

~~388.710 State Board of Education to determine data to be monitored by school district; school district to report data to State Board.~~

~~388.720 Development of plan by school district to reduce pupil teacher ratios; alternative ratios for certain grades authorized in certain counties.~~

~~388.725 Quarterly reports of average daily attendance and pupil teacher ratios in elementary schools required of school districts; posting of report on Internet website.~~

~~391.3116 Contract negotiated by collective bargaining may supersede provisions of NRS 391.311 to 391.3197, inclusive; exception for certain employees deemed probationary.~~

~~391.31297 Grounds for suspension, demotion, dismissal and refusal to reemploy teachers and administrators; consideration of evaluations and standards of performance.~~

~~391.313 Admonition of licensed employee; Duty of administrator; removal from records; when admonition not required.~~

~~391.314 Suspension of licensed employee; dismissal proceedings; reinstatement; salary during suspension or dismissal proceedings; forfeiture of right of employment for certain offenses; period of suspension.~~

~~391.315 Recommendation for demotion, dismissal or nonreemployment; request for appointment of hearing officer.~~

~~391.3161 Request for hearing officer; appointment; procedures for challenging selection of hearing officer; duties of hearing officer.~~

~~391.317 Notice of intention to recommend demotion, dismissal or refusal to reemploy; rights of employee; request for expedited hearing if dismissed before completion of current school year.~~

~~391.318 Request for hearing; Action by superintendent.~~

~~391.3192 Procedures for hearing; payment for expenses of hearing officer and transcript.~~

~~391.31925 Person with communications disability entitled to use of registered legal interpreter at hearing.~~

~~391.3193 Written report of hearing; Contents; final and binding if so agreed; time limited for filing.~~

~~391.3194 Action by superintendent upon receipt of report; action by board; notice to licensed employee; judicial review.~~

~~391.3196 Reemployment of postprobationary employees; Notice of reemployment or delivery of contract; acceptance of employment.]~~

Assemblywoman Woodbury moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 383.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 355.

AN ACT relating to drivers' licenses; authorizing reciprocal agreements with certain other countries concerning the licensing of drivers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Motor Vehicles to issue a Nevada driver's license to an applicant who has a valid driver's license from a state which has requirements for the issuance of drivers' licenses which are comparable to those of this State. Existing law also authorizes the Director of the Department, acting as the Administrator, to enter into reciprocal agreements with the appropriate officials of other states concerning the licensing of drivers of motor vehicles. (NRS 483.245) **Section 1** of this bill authorizes the Department to issue a Nevada driver's license to an applicant who has a valid driver's license from a country which has requirements for the issuance of drivers' licenses which are comparable to those of this State, and authorizes the Director to enter into reciprocal agreements with the appropriate officials of other countries. ~~[Section 2 of this bill makes a conforming change.]~~ **Section 3** of this bill requires the Director, in recognition of the 30th anniversary of the sister-state relationship between this State and the Republic of China (Taiwan), to begin negotiations as soon as practicable with the Director General of the Taipei Economic and Cultural Office in San Francisco for reciprocity in issuing drivers' licenses to: (1) residents of this State who reside in the Republic of China (Taiwan); and (2) Taiwanese citizens who reside in this State.

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

Section 1. NRS 483.245 is hereby amended to read as follows:

483.245 1. When a person becomes a resident of Nevada as defined in this chapter and chapter 482 of NRS, the person must, within 30 days, obtain a Nevada driver's license as a prerequisite to driving any motor vehicle in the State of Nevada.

2. Where a person who applies for a license has a valid driver's license from a state **or country** which has requirements for issuance of drivers' licenses comparable to those of the State of Nevada, the Department may issue a Nevada license under the same terms and conditions applicable to a renewal of a license in this State.

3. In carrying out the provisions of this chapter, the Administrator is authorized to enter into reciprocal agreements with appropriate officials of other states **or countries** concerning the licensing of drivers of motor vehicles.

Sec. 2. (Deleted by amendment.)

Sec. 3. The Director of the Department of Motor Vehicles, in recognition of the 30th anniversary of the sister-state relationship between this State and the Republic of China (Taiwan), shall, as soon as practicable, begin negotiations pursuant to the authority granted in section 1 of this act toward a reciprocal agreement between the Department of Motor Vehicles and the Republic of China (Taiwan), through the Ministry of Transportation and Communications represented by the Director General of the Taipei Economic and Cultural Office in San Francisco, California, for reciprocity in issuing

drivers' licenses to residents of this State who reside in the Republic of China (Taiwan) and to Taiwanese citizens who reside in this State. Any agreement negotiated pursuant to this section must be in writing and signed by the Director of the Department of Motor Vehicles and the Director General of the Taipei Economic and Cultural Office in San Francisco, California.

Sec. 4. This act becomes effective upon passage and approval.

Assemblyman Wheeler moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 385.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 624.

AN ACT relating to tow cars; prohibiting operators of tow cars from towing certain vehicles to any location other than a designated vehicle storage lot under certain circumstances; revising provisions relating to operators of tow cars; providing civil and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes an insurance company to designate vehicle storage lots to which certain vehicles insured by the insurance company must be towed under certain circumstances. Existing law also requires an operator of a tow car who fails to tow a vehicle to a vehicle storage lot designated by an insurance company to forfeit the charge for towing and storage of the vehicle and tow the vehicle free of charge to the designated lot. (NRS 706.4489)

Section 3 of this bill prohibits an operator of a tow car from : (1) towing a vehicle ~~_, or seeking authorization from the owner or operator of a vehicle to tow the vehicle,~~ to a location other than a vehicle storage lot designated by the insurance company that provides coverage for the vehicle ~~_;~~ unless the owner or operator of the vehicle directs the operator of the tow car to tow the vehicle to a location that is not a vehicle storage lot pursuant to section 16 of this bill; or (2) seeking authorization from an owner or operator of a vehicle to tow the vehicle to a location other than the designated vehicle storage lot. **Section 3** also imposes civil penalties on an operator of a tow car who fails to tow certain vehicles to certain vehicle storage lots designated by an insurance company.

Existing law requires a law enforcement officer to make a good faith effort to determine the identity of the insurance company that provides coverage for the vehicle before the vehicle is towed. (NRS 706.4489) **Section 16 ~~of this bill~~** requires the operator of a tow car to make a good faith effort to determine the identity of the insurance company that provides coverage for the vehicle if the law enforcement officer does not communicate that information to the operator. **Section 16 also requires the operator of a tow car to: (1) retain**

any documents provided by a law enforcement officer indicating the identity of the insurance company that provides coverage for the vehicle; and (2) provide copies of such documents to a vehicle storage lot upon delivery of the vehicle to the vehicle storage lot.

Section 16 additionally prohibits an owner or operator of a vehicle from directing an operator of a tow car to tow the vehicle to a vehicle storage lot other than the vehicle storage lot designated by the insurance company, but authorizes an owner or operator of a vehicle to direct an operator of a tow car to tow the vehicle to a location other than a vehicle storage lot. If an owner or operator of a vehicle directs an operator of a tow car to tow the vehicle to such a location, the owner or operator of the vehicle must confirm in writing that: (1) he or she directed the operator of the tow car to tow the vehicle to such a location; and (2) the operator of the tow car did not solicit the owner or operator of the vehicle to tow the vehicle to such a location. The operator of the tow car is required to retain such written documentation.

Existing law requires an operator of a tow car to maintain a dispatcher's log identifying certain information for each vehicle towed. (NRS 706.4465) Section 13 of this bill requires an operator to record the insurance company of each vehicle towed if such information is known.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *As used in NRS 706.445 to 706.453, inclusive, and sections 2 and 3 of this act, "insurance company" means any entity authorized to provide insurance for motor vehicles in this State, including, without limitation, a captive insurer, as defined in NRS 694C.060, and a person qualified as a self-insurer, pursuant to NRS 485.380.*

Sec. 3. 1. ~~1. An~~ Except as otherwise provided in NRS 706.4489, an operator of a tow car who is required to tow a vehicle to a designated vehicle storage lot pursuant to ~~NRS 706.4489~~ that section shall not tow the vehicle to another location. If an operator of a tow car fails to tow a vehicle to the designated vehicle storage lot when required pursuant to NRS 706.4489, the operator of the tow car must:

(a) Forfeit the charge for towing and storage of the vehicle; and
(b) Tow the vehicle free of charge to the vehicle storage lot designated by the insurance company or its representative not later than 24 hours after receiving a demand, which must be made in writing or by electronic mail, from the insurance company or its representative.

2. An operator of a tow car who is required to tow a vehicle to a designated vehicle storage lot pursuant to NRS 706.4489 shall not solicit the owner or operator of the vehicle to divert the towing of the vehicle to a location other than the designated vehicle storage lot ~~1.4~~ or solicit or

market other services performed by a third party. Towing services performed pursuant to a request or demand by the owner or operator of a vehicle that the vehicle be towed to a location other than the designated vehicle storage lot does not relieve the operator of a tow car of any obligation set forth in this section relating to towing services performed without the prior consent of the owner or operator of a vehicle.

3. If an operator of a tow car violates the provisions of subsection 1 or 2, the Authority may:

(a) For a first offense, impose an administrative fine of not more than \$5,000.

(b) For a second offense within a period of 24 consecutive months ~~+~~

~~—(1) Impose, impose an administrative fine of not more than \$10,000, ~~+~~ and~~

~~—(2) Suspend the certificate of public convenience and necessity of the operator for a period of not more than 1 year.~~

(c) For a third ~~for subsequent~~ offense within a period of 24 consecutive months ~~+~~

~~—(1) Impose, impose an administrative fine of not more than \$10,000, and~~

~~—(2) Suspend the certificate of public convenience and necessity of the operator for a period of not more than 1 year or revoke the certificate.~~ \$15,000.

(d) For a fourth or subsequent offense within a period of 24 consecutive months, impose an administrative fine of not more than \$20,000.

4. Before ~~taking any administrative action authorized~~ imposing a fine pursuant to subsection 3, the Authority shall provide notice to the holder of the certificate of public convenience and necessity and conduct a hearing pursuant to the provisions of chapter 233B of NRS and NRS 706.286.

~~5. If a vehicle is insured by an insurance company that has designated one or more vehicle storage lots pursuant to NRS 706.4489 and an operator of a tow car does not tow the vehicle to a designated vehicle storage lot, the burden of proof in a hearing held pursuant to subsection 4 is on the operator of the tow car to demonstrate that he or she did not know the identity of the insurance company or that the insurance company had designated a vehicle storage lot.~~

~~6.~~ All administrative fines imposed and collected by the Authority pursuant to this section are payable to the State Treasurer and must be credited to a separate account to be used by the Authority to enforce the provisions of this chapter.

Sec. 4. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, **and sections 2 and 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 706.158 is hereby amended to read as follows:

706.158 The provisions of NRS 706.011 to 706.791, inclusive, **and sections 2 and 3 of this act** relating to brokers do not apply to any person whom the Authority determines is:

1. A motor club which holds a valid certificate of authority issued by the Commissioner of Insurance;
2. A bona fide charitable organization, such as a nonprofit corporation or a society, organization or association for educational, religious, scientific or charitable purposes; or
3. A broker of transportation services provided by an entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421.

Sec. 6. NRS 706.163 is hereby amended to read as follows:

706.163 The provisions of NRS 706.011 to 706.861, inclusive, **and sections 2 and 3 of this act** do not apply to vehicles leased to or owned by:

1. The Federal Government or any instrumentality thereof.
2. Any state or a political subdivision thereof.

Sec. 7. NRS 706.166 is hereby amended to read as follows:

706.166 The Authority shall:

1. Subject to the limitation provided in NRS 706.168 and to the extent provided in this chapter, supervise and regulate:

(a) Every fully regulated carrier and broker of regulated services in this State in all matters directly related to those activities of the motor carrier and broker actually necessary for the transportation of persons or property, including the handling and storage of that property, over and along the highways.

(b) Every operator of a tow car concerning the rates and charges assessed for towing services performed without the prior consent of the operator of the vehicle or the person authorized by the owner to operate the vehicle and pursuant to the provisions of NRS 706.011 to 706.791, inclusive ~~[-]~~, **and sections 2 and 3 of this act**.

2. Supervise and regulate the storage of household goods and effects in warehouses and the operation and maintenance of such warehouses in accordance with the provisions of this chapter and chapter 712 of NRS.

3. Enforce the standards of safety applicable to the employees, equipment, facilities and operations of those common and contract carriers subject to the Authority or the Department by:

- (a) Providing training in safety;
- (b) Reviewing and observing the programs or inspections of the carrier relating to safety; and
- (c) Conducting inspections relating to safety at the operating terminals of the carrier.

4. To carry out the policies expressed in NRS 706.151, adopt regulations providing for agreements between two or more fully regulated carriers or two or more operators of tow cars relating to:

- (a) Fares of fully regulated carriers;

(b) All rates of fully regulated carriers and rates of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle;

(c) Classifications;

(d) Divisions;

(e) Allowances; and

(f) All charges of fully regulated carriers and charges of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle, including charges between carriers and compensation paid or received for the use of facilities and equipment.

➡ These regulations may not provide for collective agreements which restrain any party from taking free and independent action.

5. Review decisions of the Taxicab Authority appealed to the Authority pursuant to NRS 706.8819.

Sec. 8. NRS 706.286 is hereby amended to read as follows:

706.286 1. When a complaint is made against any fully regulated carrier or operator of a tow car by any person that:

(a) Any of the rates, tolls, charges or schedules, or any joint rate or rates assessed by any fully regulated carrier or by any operator of a tow car for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle are in any respect unreasonable or unjustly discriminatory;

(b) Any of the provisions of NRS 706.445 to 706.453, inclusive, **and sections 2 and 3 of this act** have been violated;

(c) Any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, is, in any respect, unreasonable, insufficient or unjustly discriminatory; or

(d) Any service is inadequate,

➡ the Authority shall investigate the complaint. After receiving the complaint, the Authority shall give a copy of it to the carrier or operator of a tow car against whom the complaint is made. Within a reasonable time thereafter, the carrier or operator of a tow car shall provide the Authority with its written response to the complaint according to the regulations of the Authority.

2. If the Authority determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in NRS 706.2865.

Sec. 9. NRS 706.2885 is hereby amended to read as follows:

706.2885 1. A certificate of public convenience and necessity, permit or license issued in accordance with this chapter is not a franchise and may be revoked.

2. ~~The Authority~~ ~~Except as otherwise provided in subsection 2 of section 2 of this act, the~~ Authority may at any time, for good cause shown, after investigation and hearing and upon 5 days' written notice to the grantee, suspend any certificate, permit or license issued in accordance with the provisions of NRS 706.011 to 706.791, inclusive, **and sections 2 and 3 of this act** for a period not to exceed 60 days.

3. Upon receipt of a written complaint or on its own motion, the Authority may, after investigation and hearing, revoke any certificate, permit or license. If service of the notice required by subsection 2 cannot be made or if the grantee relinquishes the grantee's interest in the certificate, permit or license by so notifying the Authority in writing, the Authority may revoke the certificate, permit or license without a hearing.

4. The proceedings thereafter are governed by the provisions of chapter 233B of NRS.

Sec. 10. NRS 706.321 is hereby amended to read as follows:

706.321 1. Except as otherwise provided in subsection 2, every common or contract motor carrier shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

(1) Be open to public inspection; and

(2) Include all rates, fares and charges which the carrier has established and which are in force at the time of filing for any service performed in connection therewith by any carrier controlled and operated by it.

(b) As a part of that schedule, all regulations of the carrier that in any manner affect the rates or fares charged or to be charged for any service and all regulations of the carrier that the carrier has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~1~~, **and sections 2 and 3 of this act.**

2. Every operator of a tow car shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

(1) Be open to public inspection; and

(2) Include all rates and charges for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle which the operator has established and which are in force at the time of filing.

(b) As a part of that schedule, all regulations of the operator of the tow car which in any manner affect the rates charged or to be charged for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle and all regulations of the operator of the tow car that the operator has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~1~~, **and sections 2 and 3 of this act.**

3. No changes may be made in any schedule, including schedules of joint rates, or in the regulations affecting any rates or charges, except upon 30 days'

notice to the Authority, and all those changes must be plainly indicated on any new schedules filed in lieu thereof 30 days before the time they are to take effect. The Authority, upon application of any carrier, may prescribe a shorter time within which changes may be made. The 30 days' notice is not applicable when the carrier gives written notice to the Authority 10 days before the effective date of its participation in a tariff bureau's rates and tariffs, provided the rates and tariffs have been previously filed with and approved by the Authority.

4. The Authority may at any time, upon its own motion, investigate any of the rates, fares, charges, regulations, practices and services filed pursuant to this section and, after hearing, by order, make such changes as may be just and reasonable.

5. The Authority may dispense with the hearing on any change requested in rates, fares, charges, regulations, practices or service filed pursuant to this section.

6. All rates, fares, charges, classifications and joint rates, regulations, practices and services fixed by the Authority are in force, and are prima facie lawful, from the date of the order until changed or modified by the Authority, or pursuant to NRS 706.2883.

7. All regulations, practices and service prescribed by the Authority must be enforced and are prima facie reasonable unless suspended or found otherwise in an action brought for the purpose, or until changed or modified by the Authority itself upon satisfactory showing made.

Sec. 11. NRS 706.4463 is hereby amended to read as follows:

706.4463 1. In addition to the other requirements of this chapter, each operator of a tow car shall, to protect the health, safety and welfare of the public:

(a) Obtain a certificate of public convenience and necessity from the Authority before the operator provides any services other than those services which the operator provides as a private motor carrier of property pursuant to the provisions of this chapter;

(b) Use a tow car of sufficient size and weight which is appropriately equipped to transport safely the vehicle which is being towed; and

(c) Comply with the provisions of NRS 706.011 to 706.791, inclusive ~~and~~, **and sections 2 and 3 of this act.**

2. A person who wishes to obtain a certificate of public convenience and necessity to operate a tow car must:

(a) File an application with the Authority; and

(b) Submit to the Authority a complete set of fingerprints of each natural person who is identified by the Authority as a significant principal, partner, officer, manager, member, director or trustee of the applicant and written permission authorizing the Authority to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The Authority shall issue a certificate of public convenience and necessity to an operator of a tow car if it determines that the applicant:

(a) Complies with the requirements of paragraphs (b) and (c) of subsection 1;

(b) Complies with the requirements of the regulations adopted by the Authority pursuant to the provisions of this chapter;

(c) Has provided evidence that the applicant has filed with the Authority a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required for every operator of a tow car pursuant to the provisions of NRS 706.291; and

(d) Has provided evidence that the applicant has filed with the Authority schedules and tariffs pursuant to subsection 2 of NRS 706.321.

4. An applicant for a certificate has the burden of proving to the Authority that the proposed operation will meet the requirements of subsection 3.

5. The Authority may hold a hearing to determine whether an applicant is entitled to a certificate only if:

(a) Upon the expiration of the time fixed in the notice that an application for a certificate of public convenience and necessity is pending, a petition to intervene has been granted by the Authority; or

(b) The Authority finds that after reviewing the information provided by the applicant and inspecting the operations of the applicant, it cannot make a determination as to whether the applicant has complied with the requirements of subsection 3.

Sec. 12. NRS 706.4464 is hereby amended to read as follows:

706.4464 1. An operator of a tow car who is issued a certificate of public convenience and necessity may transfer it to another operator of a tow car qualified pursuant to the provisions of NRS 706.011 to 706.791, inclusive, **and sections 2 and 3 of this act**, but no such transfer is valid for any purpose until a joint application to make the transfer is made to the Authority by the transferor and the transferee, and the Authority has authorized the substitution of the transferee for the transferor. The application must include a complete set of fingerprints of each natural person who is identified by the Authority as a significant principal, partner, officer, manager, member, director or trustee of the transferee and written permission authorizing the Authority to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. No transfer of stock of a corporate operator of a tow car subject to the jurisdiction of the Authority is valid without the prior approval of the Authority if the effect of the transfer would be to change the corporate control of the operator of a tow car or if a transfer of 15 percent or more of the common stock of the operator of a tow car is proposed.

2. The Authority shall approve an application filed with it pursuant to subsection 1 if it determines that the transferee:

(a) Complies with the provisions of NRS 706.011 to 706.791, inclusive, **and sections 2 and 3 of this act** and the regulations adopted by the Authority pursuant to those provisions;

(b) Uses equipment that is in compliance with the regulations adopted by the Authority;

(c) Has provided evidence that the transferee has filed with the Authority a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required for every operator of a tow car pursuant to the provisions of NRS 706.291; and

(d) Has provided evidence that the transferee has filed with the Authority schedules and tariffs pursuant to NRS 706.321 which contain rates and charges and the terms and conditions that the operator of the tow car requires to perform towing services without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle which do not exceed the rates and charges that the transferor was authorized to assess for the same services.

3. The Authority may hold a hearing concerning an application submitted pursuant to this section only if:

(a) Upon the expiration of the time fixed in the notice that an application for transfer of a certificate of public convenience and necessity is pending, a petition to intervene has been granted by the Authority; or

(b) The Authority finds that after reviewing the information provided by the applicant and inspecting the operations of the applicant, it cannot make a determination as to whether the applicant has complied with the requirements of subsection 2.

4. The Authority shall not hold a hearing on an application submitted pursuant to this section if the application is made to transfer the certificate of public convenience and necessity from a natural person or partners to a corporation whose controlling stockholders will be substantially the same person or partners.

5. The approval by the Authority of an application for transfer of a certificate of public convenience and necessity of an operator of a tow car is not valid after the expiration of the term for the transferred certificate.

Sec. 13. NRS 706.4465 is hereby amended to read as follows:

706.4465 The operator shall maintain a dispatcher's log which shows for each vehicle towed:

1. The date and time the call to provide towing was received.
2. The name of the person requesting that the vehicle be towed.
3. The date and time a tow car was dispatched to provide the towing.
4. The date and time the tow car arrived at the location of the vehicle to be towed.

5. The date and time the towing was completed.

6. The model, make, year of manufacture, vehicle identification number and license plate number of the towed motor vehicle.

7. The name of the insurance company that provides coverage for the towed vehicle, if the operator determines the identity of the insurance company or is otherwise informed of the identity of the insurance company.

Sec. 14. NRS 706.4483 is hereby amended to read as follows:

706.4483 1. The Authority shall act upon complaints regarding the failure of an operator of a tow car to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~1~~, **and sections 2 and 3 of this act.**

2. In addition to any other remedies that may be available to the Authority to act upon complaints, the Authority may order the release of towed motor vehicles, cargo or personal property upon such terms and conditions as the Authority determines to be appropriate.

Sec. 15. NRS 706.4487 is hereby amended to read as follows:

706.4487 The Legislature hereby finds and declares that:

1. Towing a vehicle, either after an accident or after the vehicle is stolen and subsequently recovered, to a vehicle storage lot designated by the insurer of the vehicle will result in the placement of vehicle storage lots in more locations, as insurance companies will designate as many vehicle storage lots as are necessary to provide coverage throughout the county, thus enhancing safety by limiting both the time and distance that a tow car is traveling with a towed vehicle.

2. Authorizing insurance companies to designate vehicle storage lots will enhance safety by ensuring that the vehicles towed thereto are stored in locations which:

- (a) Guarantee safe access to the vehicles by their owners; and
- (b) Protect the property of the owners of the vehicles, including, without limitation, the vehicles themselves.

3. The provisions of NRS 706.4489 **and section 3 of this act** constitute an exercise of the safety regulatory authority of this State with respect to motor vehicles.

Sec. 16. NRS 706.4489 is hereby amended to read as follows:

706.4489 1. An insurance company may designate one or more vehicle storage lots to which all vehicles that are towed at the request of a law enforcement officer:

- (a) Following an accident; or
 - (b) Following recovery after having been stolen,
- ➡ and which are insured by that insurance company must be towed pursuant to subsection 2. The designation of a vehicle storage lot must be provided in writing by the insurance company, its representative or the owner or operator of the vehicle storage lot to all providers of towing services that have obtained a certificate of public convenience and necessity and operate in the same geographical area in which the designated vehicle storage lot is situated.

2. If a law enforcement officer requests that an operator of a tow car tow a vehicle following an accident or following recovery after having been stolen and the vehicle is not otherwise subject to impoundment, the law enforcement officer shall make a good faith effort to determine the identity of the insurance

company that provides coverage for the ~~owner of the~~ vehicle. If the law enforcement officer determines the identity of the insurance company, he or she shall inform the operator of the tow car of the identity of the insurance company. ***If the law enforcement officer does not inform the operator of the tow car of the identity of the insurance company, the operator of the tow car shall make a good faith effort to determine the identity of the insurance company from the law enforcement officer and the owner or operator of the vehicle.*** If the operator of the tow car:

(a) Is informed by a law enforcement officer of the identity of the insurance company that provides coverage for the ~~owner of the~~ vehicle; or

(b) Otherwise determines the identity of the insurance company that provides coverage for the ~~owner of the~~ vehicle,

↪ and the insurance company has designated a vehicle storage lot pursuant to subsection 1, the operator of the tow car shall tow the vehicle to the designated vehicle storage lot unless the owner or operator of the vehicle, pursuant to subsection 4, or a representative of the insurance company has directed otherwise. ***The owner or operator of the vehicle shall be deemed to have consented to towing the vehicle to the vehicle storage lot designated by the insurance company that provides coverage for the vehicle.***

3. ~~If an operator of a tow car fails to tow a vehicle to the designated vehicle storage lot pursuant to subsection 2, the operator of the tow car shall:~~

~~— (a) Forfeit the charge for towing and storage of the vehicle; and~~

~~— (b) Tow the vehicle free of charge to the vehicle storage lot designated by the insurance company or its representative not later than 24 hours after receiving a demand, which must be made in writing or by electronic mail, from the insurance company or its representative.~~ ***The operator of a tow car shall retain any documents provided by a law enforcement officer pursuant to subsection 2 indicating the identity of the insurance company that provides coverage for a vehicle that is towed at the request of the law enforcement officer. The operator of a tow car shall provide copies of such documents to a vehicle storage lot upon delivery of the vehicle to the vehicle storage lot.***

4. ***An owner or operator of a vehicle shall not direct an operator of a tow car to tow the vehicle to a vehicle storage lot other than the vehicle storage lot designated by the insurance company pursuant to subsection 1, but may direct an operator of a tow car to tow the vehicle to a location other than a vehicle storage lot. If an owner or operator of a vehicle directs an operator of a tow car to tow the vehicle to such a location, the operator of the tow car shall require the owner or operator of the vehicle to confirm in writing that he or she directed the operator of the tow car to tow the vehicle to a location other than the designated vehicle storage lot and that the operator of the tow car did not solicit the owner or operator of the vehicle in violation of subsection 2 of section 3 of this act. The operator of the tow car shall retain such written documentation.***

5. The owners of a vehicle storage lot designated by an insurance company pursuant to subsection 1 shall agree in writing to indemnify the relevant law

enforcement agencies and their officers, employees, agents and representatives from any liability relating to the towing of a vehicle insured by the designating insurance company and to the storing of the vehicle at the vehicle storage lot if the law enforcement officer who requested the towing of the vehicle made a good faith effort to comply with the provisions of subsection 2.

~~{5.}~~ 6. A vehicle storage lot must:

(a) Maintain adequate, accessible and secure storage within the State of Nevada for any vehicle that is towed to the vehicle storage lot;

(b) Comply with all standards a law enforcement agency may adopt pursuant to NRS 706.4485 to protect the health, safety and welfare of the public;

(c) Comply with all local laws and ordinances applicable to that business, including, without limitation, local laws and ordinances relating to business licenses, zoning, building and fire codes, parking, paving, lights and security; and

(d) If the vehicle storage lot is a salvage pool as that term is defined in NRS 487.400, comply with all applicable requirements imposed pursuant to NRS 487.400 to 487.510, inclusive.

~~{6.}~~ 7. If a vehicle storage lot has rates and charges that have been approved by the Authority for the storage of a vehicle, the vehicle storage lot is not required to assess those rates and charges for the storage of a vehicle that is towed to the vehicle storage lot in accordance with this section, but may not assess a rate or charge in excess of those approved rates and charges. If a vehicle storage lot does not have rates and charges that have been approved by the Authority, it may not assess a rate or charge in excess of the rates and charges for the storage of a vehicle that have been approved by the law enforcement agency that requested the tow. If the requesting law enforcement agency does not have approved rates and charges, the vehicle storage lot may not assess a rate or charge in excess of the rates and charges for the storage of a vehicle that have been approved by the largest law enforcement agency in the county. An operator of a tow car who tows a vehicle to a vehicle storage lot pursuant to this section:

(a) Shall assess the rates and charges approved by the Authority for towing the vehicle.

(b) Is entitled to payment from the operator of the vehicle storage lot at the time the vehicle is towed to the vehicle storage lot.

~~{7.}~~ 8. Before designating a vehicle storage lot pursuant to subsection 1, an insurance company must obtain the approval of the Authority. The Authority shall approve the designation if the Authority determines that the vehicle storage lot has:

(a) Executed an indemnification agreement that meets the requirements of subsection ~~{4.}~~ 5;

(b) Satisfied the requirements of subsection ~~{5.}~~ 6; and

(c) Otherwise satisfied the requirements of this section.

~~§ 9.~~ 9. The provisions of this section apply only to a county whose population is 700,000 or more.

~~§ 10.~~ 10. As used in this section:

(a) “Boat” means any vessel or other watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(b) “Vehicle” has the meaning ascribed to it in NRS 706.146 and includes all terrain vehicles and boats.

(c) “Vehicle storage lot” means a business which, for a fee, stores vehicles that are towed at the request of a law enforcement officer following an accident or following recovery after having been stolen and includes, without limitation, a salvage pool, as that term is defined in NRS 487.400, which operates a vehicle storage lot in accordance with the provisions of this section. The term does not include a salvage pool that has not elected to operate a vehicle storage lot in accordance with the provisions of this section and is operating within the scope of its authority pursuant to NRS 487.400 to 487.510, inclusive.

Sec. 17. NRS 706.453 is hereby amended to read as follows:

706.453 The provisions of NRS 706.445 to 706.451, inclusive, *and sections 2 and 3 of this act* do not apply to automobile wreckers who are licensed pursuant to chapter 487 of NRS.

Sec. 18. NRS 706.736 is hereby amended to read as follows:

706.736 1. Except as otherwise provided in subsection 2, the provisions of NRS 706.011 to 706.791, inclusive, *and sections 2 and 3 of this act* do not apply to:

(a) The transportation by a contractor licensed by the State Contractors’ Board of the contractor’s own equipment in the contractor’s own vehicles from job to job.

(b) Any person engaged in transporting the person’s own personal effects in the person’s own vehicle, but the provisions of this subsection do not apply to any person engaged in transportation by vehicle of property sold or to be sold, or used by the person in the furtherance of any commercial enterprise other than as provided in paragraph (d), or to the carriage of any property for compensation.

(c) Special mobile equipment.

(d) The vehicle of any person, when that vehicle is being used in the production of motion pictures, including films to be shown in theaters and on television, industrial training and educational films, commercials for television and video discs and tapes.

(e) A private motor carrier of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(f) A private motor carrier of property which is used to attend livestock shows and sales.

(g) The transportation by a private school of persons or property in connection with the operation of the school or related school activities, so long

as the vehicle that is used to transport the persons or property does not have a gross vehicle weight rating of 26,001 pounds or more and is not registered pursuant to NRS 706.801 to 706.861, inclusive.

2. Unless exempted by a specific state statute or a specific federal statute, regulation or rule, any person referred to in subsection 1 is subject to:

(a) The provisions of paragraph (d) of subsection 1 of NRS 706.171 and NRS 706.235 to 706.256, inclusive, 706.281, 706.457 and 706.458.

(b) All rules and regulations adopted by reference pursuant to paragraph (b) of subsection 1 of NRS 706.171 concerning the safety of drivers and vehicles.

(c) All standards adopted by regulation pursuant to NRS 706.173.

3. The provisions of NRS 706.311 to 706.453, inclusive, **and sections 2 and 3 of this act**, 706.471, 706.473, 706.475 and 706.6411 which authorize the Authority to issue:

(a) Except as otherwise provided in paragraph (b), certificates of public convenience and necessity and contract carriers' permits and to regulate rates, routes and services apply only to fully regulated carriers.

(b) Certificates of public convenience and necessity to operators of tow cars and to regulate rates for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle apply to operators of tow cars.

4. Any person who operates pursuant to a claim of an exemption provided by this section but who is found to be operating in a manner not covered by any of those exemptions immediately becomes liable, in addition to any other penalties provided in this chapter, for the fee appropriate to the person's actual operation as prescribed in this chapter, computed from the date when that operation began.

5. As used in this section, "private school" means a nonprofit private elementary or secondary educational institution that is licensed in this State.

Sec. 19. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, **and sections 2 and 3 of this act** apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, **and sections 2 and 3 of this act** or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~1-1~~, **and sections 2 and 3 of this act**;

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~1-1~~, **and sections 2 and 3 of this act**;

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~§~~, **and sections 2 and 3 of this act;**

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

➔ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

➔ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than \$500 nor more than \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 20. NRS 706.781 is hereby amended to read as follows:

706.781 In addition to all the other remedies provided by NRS 706.011 to 706.861, inclusive, **and sections 2 and 3 of this act**, for the prevention and punishment of any violation of the provisions thereof and of all orders of the Authority or the Department, the Authority or the Department may compel compliance with the provisions of NRS 706.011 to 706.861, inclusive, **and sections 2 and 3 of this act**, and with the orders of the Authority or the Department by proceedings in mandamus, injunction or by other civil remedies.

Sec. 21. NRS 244.3605 is hereby amended to read as follows:

244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601, the board of county commissioners of a county may, to abate public nuisances, adopt by ordinance procedures pursuant to which the board or its designee may order an owner of property within the county to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;
(b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS;

(c) Clear weeds and noxious plant growth; or

(d) Repair, clear, correct, rectify, safeguard or eliminate any other public nuisance as defined in the ordinance adopted pursuant to this section,

➔ to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, of the existence on the owner's property of a public nuisance set forth in subsection 1 and the date by which the owner must abate the public nuisance.

(2) If the public nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the public nuisance.

(3) Afforded an opportunity for a hearing before the designee of the board relating to the order of abatement and an appeal of that decision either to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

(4) Afforded an opportunity for a hearing before the designee of the board relating to the imposition of civil penalties and an appeal of that decision either

to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

(b) Provide that the date specified in the notice by which the owner must abate the public nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the public nuisance on the property if the owner fails to abate the public nuisance.

(d) Provide for civil penalties for each day that the owner did not abate the public nuisance after the date specified in the notice by which the owner was required to abate the public nuisance.

3. In any county whose population is 700,000 or more, an ordinance adopted pursuant to subsection 1 may authorize the county to request the operator of a tow car to abate a public nuisance by towing abandoned or junk vehicles which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means if the conditions of subsection 4 are satisfied. The operator of a tow car requested to tow a vehicle pursuant to this section must comply with the provisions of NRS 706.445 to 706.453, inclusive ~~1~~, **and sections 2 and 3 of this act.**

4. The county may abate the public nuisance on the property and may recover the amount expended by the county for labor and materials used to abate the public nuisance or request abatement by the operator of a tow car pursuant to subsection 3 if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance on the owner's property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance within the period specified in the order; or

(c) The board or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the public nuisance within the period specified in the order.

5. In addition to any other reasonable means for recovering money expended by the county to abate the public nuisance and, except as otherwise provided in subsection 6, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1, the board or its designee may make the expense and civil penalties a special assessment against the property upon which the public nuisance is located, and this special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

6. Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 5 by the board or its designee unless:

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the public nuisance or the date specified in the

order of the board or court by which the owner must abate the public nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than \$5,000.

7. If a designee of the board imposes a special assessment pursuant to subsection 5, the designee shall submit a written report to the board at least once each calendar quarter that sets forth, for each property against which such an assessment has been imposed:

(a) The street address or assessor's parcel number of the property;

(b) The name of each owner of record of the property as of the date of the assessment; and

(c) The total amount of the assessment, stating the amount assessed for the expense of abatement and any amount assessed for civil penalties.

8. As used in this section, "dangerous structure or condition" means a structure or condition that is a public nuisance which may cause injury to or endanger the health, life, property or safety of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 244.3675 with respect to minimum levels of health or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the board of county commissioners of a county, the violation of which is designated by the board as a public nuisance in the ordinance, rule or regulation.

Sec. 22. NRS 268.4122 is hereby amended to read as follows:

268.4122 1. The governing body of a city may adopt by ordinance procedures pursuant to which the governing body or its designee may order an owner of property within the city to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS; or

(c) Clear weeds and noxious plant growth,

➔ to protect the public health, safety and welfare of the residents of the city.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, of the existence on the property of a condition set forth in subsection 1 and the date by which the owner must abate the condition.

(2) If the condition is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the condition.

(3) Afforded an opportunity for a hearing before the designee of the governing body relating to the order of abatement and an appeal of that

decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.

(4) Afforded an opportunity for a hearing before the designee of the governing body relating to the imposition of civil penalties and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

(d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was requested to abate the condition.

(e) If the county board of health, city board of health or district board of health in whose jurisdiction the incorporated city is located has adopted a definition of garbage, use the definition of garbage adopted by the county board of health, city board of health or district board of health, as applicable.

3. In any county whose population is 700,000 or more, an ordinance adopted pursuant to subsection 1 may authorize the city to request the operator of a tow car to abate a condition by towing abandoned or junk vehicles which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means if the governing body or its designee has directed the abatement of the condition pursuant to subsection 4. The operator of a tow car requested to tow a vehicle by a city pursuant to this section must comply with the provisions of NRS 706.445 to 706.453, inclusive ~~1~~, **and sections 2 and 3 of this act.**

4. The governing body or its designee may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition or request abatement by the operator of a tow car pursuant to subsection 3 if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on the property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition within the period specified in the order; or

(c) The governing body or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.

5. In addition to any other reasonable means for recovering money expended by the city to abate the condition and, except as otherwise provided in subsection 6, for collecting civil penalties imposed pursuant to the ordinance

adopted pursuant to subsection 1, the governing body or its designee may make the expense and civil penalties a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

6. Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 5 by the governing body or its designee unless:

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the condition or the date specified in the order of the governing body or court by which the owner must abate the condition, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than \$5,000.

7. If a designee of the governing body imposes a special assessment pursuant to subsection 5, the designee shall submit a written report to the governing body at least once each calendar quarter that sets forth, for each property against which such an assessment has been imposed:

(a) The street address or assessor's parcel number of the property;

(b) The name of each owner of record of the property as of the date of the assessment; and

(c) The total amount of the assessment, stating the amount assessed for the expense of abatement and any amount assessed for civil penalties.

8. As used in this section, "dangerous structure or condition" means a structure or condition that may cause injury to or endanger the health, life, property, safety or welfare of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 268.413 with respect to minimum levels of health, maintenance or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the governing body of a city, the violation of which is designated as a nuisance in the ordinance, rule or regulation.

Assemblyman Wheeler moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 386.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 547.

AN ACT relating to real property; **establishing supplemental procedures for the retaking of a dwelling subject to housebreaking or unlawful entry;**

establishing procedures for the retaking of a dwelling subject to forcible entry or forcible detainer; revising provisions relating to unlawful detainer; revising the procedures for removing a tenant who is guilty of an unlawful detainer; establishing the criminal offenses of housebreaking, unlawful entry and unlawful reentry; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth procedures for the removal of a ~~tenant~~ **person** who is guilty of **forcible entry, forcible detainer or** unlawful detainer. (NRS ~~40.230, 40.240,~~ 40.280-40.420) **Section 23** of this bill revises provisions governing the service of a notice to surrender by: (1) providing for different posting and mailing requirements ~~;~~ ~~based on the type of tenancy;~~ (2) eliminating the requirement that a witness be present for service if notice is served by a sheriff, constable or licensed process server; and (3) revising the contents of proof of service that must be filed with a court.

Existing law authorizes and sets forth a summary procedure for eviction of a tenant **of certain types of properties** who is guilty of unlawful detainer for ~~;~~ ~~default in the payment of rent. (NRS 40.253) Existing law also sets forth a summary procedure for the eviction of a tenant who is guilty of unlawful detainer for certain other reasons including;~~ (1) continuing in possession of real property after the expiration of a specific term; (2) continuing in possession after expiration of a notice to surrender; (3) waste, nuisance, violation of certain lease terms and committing certain unlawful activities; and (4) failure to perform lease or agreement conditions or covenants. (NRS 40.254) ~~Sections 19 and~~ **Section 20** of this bill ~~revise these~~ **revises this summary procedure as they relate it relates** to the contents of certain notices served upon a tenant and the commencement and conduct of court proceedings in contested cases.

Existing law ~~identifies the various acts which constitute~~ **provides that a tenant's neglect or failure to perform any condition or covenant of the lease or agreement under which property is held constitutes** unlawful detainer and ~~tenant~~ **warrants** the commencement of proceedings to remove the tenant. (NRS ~~40.250-40.2516~~ ~~Sections 5-8 and 13-17~~ **40.2516**) **Section 17** of this bill ~~reorganize these provisions by act, tenancy and type~~ **revises the types of property to which these provisions apply and specifies** the regular and summary procedures, if applicable, by which a landlord may remove a tenant from the property.

Existing law describes conduct which constitutes forcible entry and forcible detainer. (NRS 40.230, 40.240) **Sections 11 and 12** of this bill revise the definitions of "forcible entry" and "forcible detainer," establish requirements relating to a notice to surrender that must be served upon a person who commits forcible entry or forcible detainer and authorize the entry of judgment

for three times the amount of actual damages for such offenses under certain circumstances. **Section 2** of this bill establishes a procedure by which an owner of a dwelling that is the object of a ~~forcible entry or forcible detainer~~ **housebreaking or unlawful occupancy** may retake possession of and change the locks on the dwelling. **Section 4** of this bill establishes a procedure by which an occupant who has been locked out of a dwelling may seek to recover possession of the dwelling.

Sections 45-48 of this bill set forth the acts which constitute the criminal offenses of housebreaking, unlawful ~~entry~~ **occupancy** and unlawful reentry and the penalties that attach upon conviction. **Section 3** of this bill establishes a procedure by which the owner of a dwelling that was subject to ~~housebreaking or unlawful~~ **forcible entry or forcible detainer** may ~~retake~~ **seek to recover** possession of ~~and change the locks on~~ the dwelling.

Section 56 of this bill repeals a provision that authorizes treble damages in a recovery for a forcible or unlawful entry to certain types of real property.

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

Section 1. Chapter 40 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. 1. ~~But~~ Except as otherwise provided in subsection 4, in addition to the remedy provided in NRS 40.290 to 40.420, inclusive, this section and sections 3 and 4 of this act, when ~~any~~ all known ~~unauthorized or~~ unlawful or unauthorized adult ~~occupant~~ occupants of a dwelling ~~has~~ have been arrested for housebreaking or unlawful occupancy and ~~any~~ all minor ~~occupant is~~ occupants are taken into the custody of the State, the owner of the dwelling may retake possession and change the locks on the dwelling.

2. *At the time an owner of a dwelling retakes possession or changes the locks of a dwelling pursuant to subsection 1, the owner or an authorized representative of the owner shall post a written notice on the dwelling. The notice must:*

- (a) Identify the address of the dwelling;*
- (b) Identify the court that has jurisdiction over any matter relating to the dwelling;*
- (c) Identify the date on which the owner took possession of the dwelling pursuant to subsection 1 or changed the locks; and*
- (d) Advise the ~~unauthorized or~~ unlawful or unauthorized occupant that:*
 - (1) One or more locks on the dwelling have been changed as the result of an arrest for housebreaking or unlawful occupancy.*
 - (2) The ~~unauthorized or~~ unlawful or unauthorized occupant has the right to contest the matter by filing a verified complaint for reentry with the court within ~~14~~ 21 calendar days after the date indicated in paragraph (c). The complaint must be served upon the owner of the dwelling or the*

authorized representative of the owner at the address provided to the court with the filing of the written notice pursuant to subsection 3.

(3) Reentry of the property without a court order is a criminal offense, punishable by up to 4 years in prison.

(4) Except as otherwise provided in this subparagraph, the owner of the dwelling shall provide safe storage of any personal property which remains on the property. The owner may dispose of any personal property which remains on the property after ~~144~~ 21 calendar days from the date indicated in paragraph (c) unless within that time the owner receives an affidavit or notice of hearing pursuant to section 3 of this act. The unlawful or unauthorized occupant may recover his or her personal property by filing an affidavit with the court pursuant to section 3 of this act within ~~144~~ 21 calendar days after the date indicated in paragraph (c). The owner is entitled to payment of the reasonable and actual costs of inventory, moving and storage before releasing the personal property to the occupant.

3. The notice posted pursuant to subsection 2 must remain posted on the dwelling for not less than ~~144~~ 21 calendar days. A copy of the notice must be filed with the court ~~on the same~~ not later than 1 day ~~that~~ after any locks are changed on the dwelling and must be accompanied by a statement which includes an address for service of any documents on the owner of the dwelling ~~or~~ or an authorized representative of the owner.

4. This section does not apply if one or more unlawful or unauthorized occupants is occupying the dwelling.

5. As used in this section:

(a) "Housebreaking" has the meaning ascribed to it in section 46 of this act.

(b) "Unlawful entry" has the meaning ascribed to it in section ~~47~~ 48 of this act.

Sec. 3. 1. In addition to the remedy provided in NRS 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act, when a person who is guilty of forcible entry or forcible detainer fails, after the expiration of a written notice to surrender which was served pursuant to NRS 40.230 or 40.240, to surrender the real property to the owner of the real property or the occupant who is authorized by the owner to be in possession of the real property, the owner or occupant who is authorized by the owner may seek to recover possession of the real property pursuant to this section.

2. The owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property shall serve the notice to surrender on the unlawful or unauthorized occupant in accordance with the provisions of NRS 40.280.

3. In addition to the requirements set forth in subsection 2 of NRS 40.230 and subsection 2 of NRS 40.240, a written notice to surrender must:

(a) Identify the court that has jurisdiction over the matter.

(b) Advise the unlawful or unauthorized occupant:

(1) Of his or her right to contest the matter by filing, before the court's close of business on the ~~third~~ fourth judicial day following service of the notice of surrender, an affidavit with the court that has jurisdiction over the matter stating the reasons why the unlawful or unauthorized occupant is not guilty of a forcible entry or forcible detainer.

(2) That if the court determines that the unlawful or unauthorized occupant is guilty of a forcible entry or forcible detainer, the court may issue a summary order for removal of the unlawful or unauthorized occupant or an order providing for the nonadmittance of the unlawful or unauthorized occupant, directing the sheriff or constable of the county to remove the unlawful or unauthorized occupant within 24 hours after the sheriff's or constable's receipt of the order from the court.

(3) That, except as otherwise provided in this subparagraph, the owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner of the real property to be in possession of the real property shall provide safe storage of any personal property of the unlawful or unauthorized occupant which remains on the property. The owner, an authorized representative of the owner or occupant may dispose of any personal property of the unlawful or unauthorized occupant remaining on the real property after 14 calendar days from the execution of an order for removal of the unlawful or unauthorized occupant or the compliance of the unlawful or unauthorized occupant with the notice to surrender, whichever comes first. The unlawful or unauthorized occupant must pay the owner, authorized representative of the owner or occupant for the reasonable and actual costs of inventory, moving and storage of the personal property before the personal property will be released to the unlawful or unauthorized occupant.

4. Upon service of the written notice to surrender pursuant to subsection 3, the unlawful or unauthorized occupant shall:

(a) Before the expiration of the notice, surrender the real property to the owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property, in which case an affidavit of complaint may not be filed pursuant to subsection 5 and a summary order for removal ~~for nonadmittance~~ may not be issued pursuant to subsection 6; ~~for~~

(b) Request that the court stay the execution of a summary order for removal, stating the reasons why such a stay is warranted; or

(c) Contest the matter by filing, before the court's close of business on the ~~third~~ fourth judicial day following service of the notice to surrender, an affidavit with the court that has jurisdiction over the matter stating the reasons that the unlawful or unauthorized occupant is not guilty of a forcible entry or forcible detainer. A file-stamped copy of the affidavit must be served by mail upon the issuer of the notice to surrender.

5. Upon expiration of the written notice to surrender, the owner of the real property, an authorized representative of the owner or the occupant

who is authorized by the owner to be in possession of the real property may apply by affidavit of complaint for eviction to the justice court of the township in which the real property is located or the district court of the county in which the real property is located, whichever has jurisdiction over the matter. The affidavit of complaint for eviction must state or contain:

(a) The date on which the unlawful or unauthorized occupant forcibly entered or detained the real property or the date on which the applicant first became aware of the forcible entry or forcible detainer.

(b) A summary of the specific facts detailing how the alleged forcible entry or forcible detainer was or is being committed.

(c) A copy of the written notice to surrender that was served on the unlawful or unauthorized occupant.

(d) Proof of service of the written notice to surrender in compliance with NRS 40.280.

6. Upon the filing of the affidavit of complaint by the owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property pursuant to subsection 5, the justice court or the district court, as applicable, shall determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If:

(a) The unlawful or unauthorized occupant has failed to timely file an affidavit contesting the matter pursuant to paragraph ~~[(b)]~~ (c) of subsection 4 and the court determines that sufficient evidence has been set forth in the affidavit of complaint to demonstrate that a forcible entry or forcible detainer has been committed by the unlawful or unauthorized occupant, the court must issue an order directing the sheriff or constable of the county to remove the unlawful or unauthorized occupant within 24 hours after the sheriff's or constable's receipt of the order from the court.

(b) The unlawful or unauthorized occupant has timely filed an affidavit contesting the matter pursuant to paragraph ~~[(b)]~~ (c) of subsection 4 and the court determines that the affidavit fails to raise ~~to a justiciable issue~~ an element of a legal defense regarding the alleged forcible entry or forcible detainer, the court may rule on the matter without a hearing. If the court determines that sufficient evidence has been set forth in the affidavit of complaint to demonstrate that a forcible entry or forcible detainer has been committed by the unlawful or unauthorized occupant, the court must issue an order directing the sheriff or constable of the county to remove the unlawful or unauthorized occupant within 24 hours after the sheriff's or constable's receipt of the order from the court ~~and~~, unless the court has stayed the execution of the order pursuant to a request pursuant to paragraph (b) of subsection 4.

(c) The unlawful or unauthorized occupant has timely filed an affidavit contesting the matter pursuant to paragraph ~~[(b)]~~ (c) of subsection 4 and the court determines that the affidavit raises ~~to a justiciable issue~~ a legal defense regarding the alleged forcible entry or forcible detainer, the

court must require the parties to appear at a hearing to determine the truthfulness and sufficiency of the evidence set forth in any affidavit. Such a hearing must be held within 7 judicial days after the filing of the affidavit of complaint.

(d) Upon review of the affidavits of any party or upon hearing, the court determines that:

(1) There is a legal defense as to the alleged forcible entry or forcible detainer, the court must refuse to grant either party any relief and, except as otherwise provided in this subsection, must require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act.

(2) The unlawful or unauthorized occupant gained entry or possession of the real property peaceably and as a result of ~~for~~ an invalid lease, fraudulent act or misrepresentation by a person without the authority of the owner of the real property, the court may issue a summary order for the removal of the unlawful or unauthorized occupant but also may, within the discretion of the court, stay such order for a period sufficient to allow the unlawful or unauthorized occupant to vacate and remove his or her personal property. This period may not exceed 20 days.

7. The owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property may, without incurring any civil or criminal liability, dispose of personal property abandoned on the real property by an unlawful or unauthorized occupant who is ordered removed by this section in the following manner:

(a) The owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property shall reasonably provide for the safe storage of the abandoned personal property for ~~14~~ 21 calendar days after the removal of the unlawful or unauthorized occupant or the surrender of the real property in compliance with a written notice to surrender, whichever comes first, and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the abandoned personal property to the unlawful or unauthorized occupant or his or her authorized representative rightfully claiming the property within that period. The owner or the occupant is liable to the unlawful or unauthorized occupant only for negligent or wrongful acts in storing the abandoned personal property.

(b) After the expiration of the ~~14-day~~ 21-day period, the owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property may dispose of the abandoned personal property and recover his or her reasonable costs out of the personal property or the value thereof.

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

(d) Any dispute relating to the amount of the costs claimed by the owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property pursuant to paragraph (a) may be resolved by the court pursuant to a motion filed by the unlawful or unauthorized occupant and the payment of the appropriate fees relating to the filing and service of the motion. The motion must be filed within 14 calendar days after the removal of the unlawful or unauthorized occupant or the surrender of the real property in compliance with a written notice to surrender, whichever comes first. Upon the filing of a motion by the unlawful or unauthorized occupant pursuant to this paragraph, the court shall schedule a hearing on the motion. The hearing must be held within 10 judicial days after the filing of the motion. The court shall affix the date of the hearing to the motion and mail a copy to the owner, an authorized representative of the owner or the occupant at the address on file with the court.

Sec. 4. 1. If the owner of a dwelling or an authorized representative of the owner locks an occupant out of the dwelling pursuant to section 2 of this act, the occupant may recover possession of the dwelling as provided in this section.

2. The occupant must file with the justice court of the township in which the dwelling is located a verified complaint for reentry, specifying ~~the~~ :

(a) The facts of the lockout by the owner of the dwelling or the authorized representative of the owner ~~1. The occupant must also state orally under oath to the court the facts of the lockout.~~

~~3. If the occupant has complied with subsection 2 and the court reasonably believes that an unjustified lockout may have occurred, the court:~~

~~(a) Must issue an order requiring the occupant to post a bond in an amount equal to 1 month of rent; and~~

~~(b) Upon the posting of the bond, may issue, ex parte, a temporary writ of restitution that entitles the occupant to immediate and temporary possession of the dwelling, pending a final hearing on the occupant's verified complaint for reentry.~~

~~4. A temporary writ of restitution must be served on the owner of the dwelling or the authorized representative of the owner in the same manner as a writ of restitution in a forcible detainer action. A sheriff or constable may use reasonable force in executing a temporary writ of restitution under this subsection.~~

~~5.; and~~

(b) The legal basis upon which reentry into the dwelling is warranted.

~~3. The court shall, after notice to both parties, hold a ~~hearing~~ trial on the occupant's verified complaint for reentry. 1. A temporary writ of restitution must notify the owner of the dwelling of the pendency of the matter and the date of the hearing. The hearing must be held not earlier than~~

~~the first judicial day and~~ not later than ~~the seventh~~ 10 judicial day days after the date on which the occupant files the verified complaint for reentry.

~~6.~~ 4. If the court finds that an unjustified lockout has occurred, the court must issue a writ of restitution, restoring possession of the dwelling to the occupant.

5. A party may appeal from the court's judgment at the ~~hearing~~ trial on the verified complaint for reentry in the same manner as a party may appeal a judgment in an action for forcible detainer.

~~7. If a writ of restitution is issued, the writ supersedes a temporary writ of restitution.~~

~~8.~~ 6. If the owner of the dwelling or the person on whom a writ of restitution is served fails to immediately comply with the writ or later disobeys the writ, the failure is grounds for contempt of court against the owner or the person on whom the writ was served, under chapter 22 of NRS.

~~9.~~ 7. This section does not affect ~~a tenant's right~~ :

(a) The right of any party to pursue a separate cause of action under this chapter or chapter 118A of NRS ~~;~~

~~10. If an occupant in bad faith files a sworn complaint for reentry resulting in a writ of restitution being served on the owner of a dwelling or the authorized representative of the owner, the owner may in a separate cause of action recover from the occupant an amount equal to actual damages, 1 month's rent or \$500, whichever is greater, reasonable attorney's fees, and costs of court, less any sums for which the owner is liable to the occupant.~~

~~11. This section does not affect the~~ if the court finds that a landlord and tenant relationship exists between the parties; or

(b) The rights of an owner or occupant in a forcible detainer, unlawful detainer or forcible entry and detainer action.

Sec. 5. ~~1. A tenant, having leased in a tenancy at will a dwelling unit, a recreational vehicle, a mobile home or real property other than a mobile home lot or a recreational vehicle lot, is guilty of an unlawful detainer when the tenant continues in possession, in person or by subtenant, of the dwelling unit, recreational vehicle, mobile home or real property, or any part thereof, after the expiration of a written notice to surrender notifying the tenant that the tenancy at will is terminated and affording the tenant at least 5 days to surrender the premises.~~

~~2. If a tenant is guilty of an unlawful detainer pursuant to this section, the landlord may seek to recover possession of the dwelling unit, recreational vehicle, mobile home or real property pursuant to the provisions of NRS 40.254 or 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act.~~

~~3. As used in this section, "tenancy at will" means an agreement for tenancy that~~

~~(a) Is terminable at the will of either the landlord or the tenant, whereby the tenant occupies property with the consent of the landlord; and~~

~~(b) Does not specify a definite rental period or periodic payment of rent.] (Deleted by amendment.)~~

~~Sec. 6. 1. A tenant having leased a mobile home lot subject to the provisions of chapter 118B of NRS, or a recreational vehicle lot in an area of a mobile home park other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 8 of NRS 40.215, is guilty of an unlawful detainer when the tenant continues in possession, in person or by subtenant, without the landlord's consent:~~

~~—(a) After notice has been given pursuant to NRS 118B.115, 118B.170 or 118B.190 and the period of the notice has expired; or~~

~~—(b) If the person is not a natural person and has received three notices for nonpayment of rent within a 12-month period, immediately upon failure to pay timely rent.~~

~~2. If a tenant is guilty of an unlawful detainer pursuant to this section, the landlord may seek to recover possession of the lot described in subsection 1 pursuant to the provisions of NRS 40.254 or 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act.] (Deleted by amendment.)~~

~~Sec. 7. 1. A tenant having leased a recreational vehicle lot is guilty of an unlawful detainer when the tenant continues in possession, in person or by subtenant, of the recreational vehicle lot:~~

~~—(a) For a recreational vehicle lot that is leased for an unspecified term or a period with payment of periodic rent, after the expiration of a notice to surrender notifying the tenant that the tenancy is terminated for no cause and affording the tenant 5 days to surrender the recreational vehicle lot; or~~

~~—(b) For a recreational vehicle lot that is leased for a specified term, after the expiration of the term. In all cases where the recreational vehicle lot is leased for a specified term or period by written contract, the tenancy terminates without notice at the expiration of the specified term or period.~~

~~2. If a tenant is guilty of an unlawful detainer pursuant to this section, the landlord may seek to recover possession of the recreational vehicle lot pursuant to the provisions of NRS 40.254 or 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act.] (Deleted by amendment.)~~

~~Sec. 8. [NRS 40.140 is hereby amended to read as follows:~~

~~40.140 1. Except as otherwise provided in this section:~~

~~—(a) [Anything] Any conduct or an ongoing condition which is injurious to health, or indecent and offensive to the senses, or an unreasonable obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property [;] and which causes injury or damage to any other tenant or occupant of that property or of an adjacent building or structure;~~

~~—(b) A building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog;~~

~~—(c) A building or place which was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and;~~

~~— (1) Which has not been deemed safe for habitation by the board of health; or~~

~~— (2) From which all materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed or remediated by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog; or~~

~~— (d) A building or place regularly and continuously used by the members of a criminal gang to engage in, or facilitate the commission of, crimes by the criminal gang;~~

~~is a nuisance, and may be the subject of an action. [The]~~

~~2. An action pursuant to subsection 1 may be brought [by].~~

~~— (a) By any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment the nuisance may be enjoined or abated, as well as damages recovered [;~~

~~2.] ; or~~

~~— (b) For unlawful detainer pursuant to NRS 40.254 or 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act by a landlord against a tenant where;~~

~~— (1) The tenant is the cause of the nuisance; and~~

~~— (2) A notice given to the tenant by the landlord pursuant to NRS 40.2514 has expired;~~

~~3. It is presumed:~~

~~— (a) That an agricultural activity conducted on farmland, consistent with good agricultural practice and established before surrounding nonagricultural activities is reasonable. Such activity does not constitute a nuisance unless the activity has a substantial adverse effect on the public health or safety;~~

~~— (b) That an agricultural activity which does not violate a federal, state or local law, ordinance or regulation constitutes good agricultural practice;~~

~~— [3.] 4. A shooting range does not constitute a nuisance with respect to any noise attributable to the shooting range if the shooting range is in compliance with the provisions of all applicable statutes, ordinances and regulations concerning noise;~~

~~— (a) As those provisions existed on October 1, 1997, for a shooting range in operation on or before October 1, 1997; or~~

~~— (b) As those provisions exist on the date that the shooting range begins operation, for a shooting range that begins operation after October 1, 1997;~~

~~is a shooting range is not subject to any state or local law related to the control of noise that is adopted or amended after the date set forth in paragraph (a) or (b), as applicable, and does not constitute a nuisance for failure to comply with any such law;~~

~~— [4.] 5. As used in this section:~~

~~— (a) "Board of health" has the meaning ascribed to it in NRS 439.4797;~~

~~(b) “Controlled substance analog” has the meaning ascribed to it in NRS 453.042.~~

~~(c) “Criminal gang” has the meaning ascribed to it in NRS 193.168.~~

~~(d) “Immediate precursor” has the meaning ascribed to it in NRS 453.086.~~

~~(e) “Shooting range” means an area designed and used for archery or sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.~~ **(Deleted by amendment.)**

Sec. 9. NRS 40.215 is hereby amended to read as follows:

40.215 As used in NRS 40.215 to 40.425, inclusive, **and sections 2 to 7, inclusive, of this act**, unless the context requires otherwise:

1. ***“Dwelling” or “dwelling unit” means a structure or part thereof that is occupied, or designed or intended for occupancy, as a residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.***

2. ***“Landlord’s agent” means a person who is hired or authorized by the landlord or owner of real property to manage the property or dwelling unit, to enter into a rental agreement on behalf of the landlord or owner of the property or who serves as a person within this State who is authorized to act for and on behalf of the landlord or owner for the purposes of service of process or receiving notices and demands. A landlord’s agent may also include a successor landlord or a property manager as defined in NRS 645.0195.***

3. “Mobile home” means every vehicle, including equipment, which is constructed, reconstructed or added to in such a way as to have an enclosed room or addition occupied by one or more persons as a ~~{dwelling}~~ **residence** or sleeping place and which has no foundation other than wheels, jacks, skirting or other temporary support.

~~{2.}~~ 4. “Mobile home lot” means a portion of land within a mobile home park which is rented or held out for rent to accommodate a mobile home.

~~{3.}~~ 5. “Mobile home park” or “park” means an area or tract of land where two or more mobile homes or mobile home lots are rented or held out for rent. “Mobile home park” or “park” does not include those areas or tracts of land, whether within or outside of a park, where the lots are held out for rent on a nightly basis.

~~{4.}~~ 6. “Premises” includes a mobile home.

~~{5.}~~ 7. “Recreational vehicle” means a vehicular structure primarily designed as temporary living quarters for travel, recreational or camping use, which may be self-propelled or mounted upon or drawn by a motor vehicle.

~~{6.}~~ 8. “Recreational vehicle lot” means a portion of land within a recreational vehicle park, or a portion of land so designated within a mobile home park, which is rented or held out for rent to accommodate a recreational vehicle overnight or for less than 3 months.

~~{7.}~~ 9. "Recreational vehicle park" means an area or tract of land where lots are rented or held out for rent to accommodate a recreational vehicle overnight or for less than 3 months.

10. *"Short-term tenancy" means a tenancy in which rent is reserved by a period of 1 week and the tenancy has not continued for more than 45 days.*

Sec. 10. NRS 40.220 is hereby amended to read as follows:

40.220 No entry shall be made **upon or** into any ~~lands, tenements,~~ **real property** or other possessions but in cases where entry is given by law; and in such cases, only in a peaceable manner, not with strong hand nor with multitude of people.

Sec. 11. NRS 40.230 is hereby amended to read as follows:

40.230 1. Every person is guilty of a forcible entry who ~~either:~~

~~1. By breaking open doors, windows or other parts of a house, or by fraud, intimidation or stealth, or by~~ **unlawfully enters any real property:**

(a) *By means of physical force resulting in damage to a structure on the real property;*

(b) *By any kind of violence or circumstance of terror* ~~[- enters upon or into any]~~ ;

(c) *Peaceably or otherwise and:*

(1) *Thereafter prevents the owner of the real property* ~~[-] from access or occupancy of the property by changing a lock;~~ or

~~{2. Who, after entering peaceably upon real property, turns}~~

(2) *Turns out by force, threats of violence or menacing conduct, the* ~~{party in natural}~~ **owner of the real property or an occupant who is authorized by the owner to be in possession** ~~[-] of the real property.~~

2. *The owner of the real property, an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property may seek to recover possession of the property pursuant to NRS ~~{40.254 or}~~ 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act, after the expiration of the notice to surrender served by the owner, authorized representative of the owner or authorized occupant upon the person who committed the forcible entry. The notice must:*

(a) *Inform the person who committed the forcible entry that he or she is guilty of forcible entry; and*

(b) *Afford the person who committed the forcible entry* ~~{3}~~ **4** ~~judicial days to surrender the property.~~

3. *If ~~{a person}~~ an owner of real property or an authorized representative of the owner recovers damages for a forcible entry, judgment may be entered for three times the amount at which the actual damages are assessed. As used in this section, "actual damages" means damages to real property and personal property.*

Sec. 12. NRS 40.240 is hereby amended to read as follows:

40.240 1. Every person is guilty of a forcible detainer who either:

~~{1. By}~~

(a) *Unlawfully holds and keeps the possession of any real property by force ~~[, or by menaces]~~ or threats of violence ~~[, unlawfully holds and keeps the possession of any real property,]~~ , or whether the ~~[same]~~ possession was acquired peaceably or otherwise; or*

~~[2. — Who, in the nighttime, or during the absence of the occupant of]~~

(b) *Enters any real property ~~[, unlawfully enters thereon,]~~ without the authority of the owner of the property , an authorized representative of the owner or an occupant who is authorized by the owner to be in possession of the real property and who, after ~~[demand made for the]~~ receiving written notice to surrender ~~[thereof, refuses for a period of 3 days]~~ pursuant to subsection 2, fails to surrender the ~~[same to such former occupant]~~. The occupant of real property within the meaning of this subsection is one who, within 5 days preceding such unlawful entry, was in the peaceable and undisturbed possession of such ~~lands.]~~ property.*

2. *The owner of the real property , an authorized representative of the owner or the occupant who is authorized by the owner to be in possession of the real property may seek to recover possession of the property pursuant to NRS ~~[40.254 or]~~ 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act, after the expiration of the notice to surrender served by the owner or authorized occupant upon the person who committed the forcible detainer. The notice must:*

(a) *Inform the person who committed the forcible detainer that he or she is guilty of a forcible detainer; and*

(b) *Afford the person who committed the forcible detainer ~~[3]~~ 4 judicial days to surrender the property.*

3. *~~If ~~[a person]~~ an owner of real property or an authorized representative of the owner recovers damages for a forcible detainer, judgment may be entered for three times the amount at which the actual damages are assessed. As used in this section, “actual damages” means damages to real property and personal property.~~*

Sec. 13. ~~[NRS 40.250 is hereby amended to read as follows:~~
~~40.250 1. A tenant of ~~[real property or]~~ a dwelling unit, a recreational vehicle, a mobile home or real property other than a mobile home lot or a recreational vehicle lot for a specified term less than life is guilty of an unlawful detainer when the tenant continues in possession, in person or by subtenant, of the ~~[property or]~~ dwelling unit, recreational vehicle, mobile home or real property, or any part thereof, after the expiration of the term for which it is let to the tenant ~~[.] or the termination of a rental agreement pursuant to NRS 118A.430. In all cases where a dwelling unit, a recreational vehicle, a mobile home or real property other than a mobile home lot or recreational vehicle lot is leased for a specified term or period, or by express or implied contract, whether written or parol, the tenancy terminates without notice at the expiration of the specified term or period.~~~~

~~2. If a tenant is guilty of an unlawful detainer pursuant to this section, the landlord or the landlord's agent may seek to recover possession of the~~

~~dwelling unit, recreational vehicle, mobile home or real property pursuant to the provisions of NRS 40.251 or 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act.~~ (Deleted by amendment.)

Sec. 14. ~~[NRS 40.251 is hereby amended to read as follows:~~

~~40.251 1. A tenant of [real property,] a dwelling unit, a recreational vehicle, [or] a mobile home or real property other than a mobile home lot or a recreational vehicle lot for a periodic tenancy of an unspecified term [less than life] is guilty of an unlawful detainer when [having leased:~~

~~—(a) Real property, except as otherwise provided in this section, or a mobile home for an indefinite time, with monthly or other periodic rent reserved,] the tenant continues in possession thereof, in person or by subtenant, without the landlord's consent after the expiration of a notice [of:~~

~~—(1)] to surrender notifying the tenant that the tenancy is terminated for no cause and affording the tenant at least 30 calendar days after the date of service of the notice to surrender to vacate the premises, unless the tenancy is from week to week. For tenancies from week to week, the notice to surrender must afford the tenant at least 7 days [;~~

~~—(2) Except as otherwise provided in subsection 2, for all other periodic tenancies, at least 30 days; or~~

~~—(3) For tenancies at will, at least 5 days.~~

~~—(b) A dwelling unit subject to the provisions of chapter 118A of NRS, the tenant continues in possession, in person or by subtenant, without the landlord's consent after expiration of:~~

~~—(1) The term of the rental agreement or its termination and, except as otherwise provided in subparagraph (2), the expiration of a notice of:~~

~~—(I) At least 7 days for tenancies from week to week; and~~

~~—(II) Except as otherwise provided in subsection 2, at least 30 days for all other periodic tenancies; or~~

~~—(2) A notice of at least 5 days where the tenant has failed to perform the tenant's basic or contractual obligations under chapter 118A of NRS.~~

~~—(c) A mobile home lot subject to the provisions of chapter 118B of NRS, or a lot for a recreational vehicle in an area of a mobile home park other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215, the tenant continues in possession, in person or by subtenant, without the landlord's consent:~~

~~—(1) After notice has been given pursuant to NRS 118B.115, 118B.170 or 118B.190 and the period of the notice has expired; or~~

~~—(2) If the person is not a natural person and has received three notices for nonpayment of rent within a 12-month period, immediately upon failure to pay timely rent.~~

~~—(d) A recreational vehicle lot, the tenant continues in possession, in person or by subtenant, without the landlord's consent, after the expiration of a notice of at least 5 days.] after the date of service of the notice to vacate the premises.~~

~~2. Except as otherwise provided in this section, if a residential tenant with a periodic tenancy, [pursuant to paragraph (a) or (b) of subsection 1,] other~~

than a tenancy from week to week, is 60 years of age or older or has a physical or mental disability, the tenant may request to be allowed to continue in possession for an additional 30 days beyond the time specified in subsection 1 ~~— [by submitting a written] The tenant must submit such a request [for an extended period and providing], in writing, to the landlord within 15 days after the date of service of the notice to surrender described in subsection 1. The request must be accompanied by proof of the tenant's age or disability. [A landlord may not be required to allow a tenant to continue in possession if a shorter notice is provided pursuant to subparagraph (2) of paragraph (b) of subsection 1.] Within 2 judicial days after the landlord receives the written request, the landlord shall respond in writing and inform the tenant: — (a) That the tenant's request is accepted, specifying the new date by which the tenant must vacate the premises, calculated by adding 30 days to the date of the expiration of the notice to surrender served pursuant to subsection 1; or~~

~~— (b) That the tenant's request is denied, specifying the basis for the denial.~~
~~3. [Any notice provided pursuant to paragraph (a) or (b) of subsection 1 must include a statement advising the tenant of the provisions of subsection 2. — 4.] If a landlord rejects a request to allow a tenant to continue in possession for an additional 30 days pursuant to subsection 2, the tenant may petition the court for an order to continue in possession for the additional 30 days. The tenant must file the petition within 2 judicial days after the tenant receives the landlord's written rejection of the tenant's request or, if the landlord fails to respond to the request, within 5 judicial days after the tenant submits the request. If the tenant submits proof to the court that the tenant is entitled to request such an extension, the court may grant the petition and enter an order allowing the tenant to continue in possession for the additional 30 days. If the court denies the petition, the tenant must be allowed to continue in possession [for] until 30 calendar days after the date of service of the notice to surrender or 5 calendar days following the date of entry of the order denying the petition [;], whichever is later.~~

~~4. Any notice to surrender provided pursuant to subsection 1 must include a statement advising the tenant of the provisions of subsections 2 and 3.~~

~~5. If a tenant is guilty of an unlawful detainer pursuant to this section, the landlord may seek to recover possession of the dwelling unit, recreational vehicle, mobile home or real property pursuant to the provisions of NRS 40.254 or 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act. (Deleted by amendment.)~~

Sec. 15. [NRS 40.2512 is hereby amended to read as follows:

~~40.2512 1. A tenant of real property, [or] a dwelling unit, a recreational vehicle or a mobile home other than a mobile home lot or a recreational vehicle lot for a term less than life is guilty of an unlawful detainer when the tenant continues in possession, in person or by subtenant, after default in the payment of any rent and after a notice in writing, requiring in the alternative~~

the payment of the rent or the surrender of the detained premises, remains uncomplied with for a period of 5 days, or in the case of a mobile home lot, 10 days after service thereof. The notice may be served at any time after the rent becomes due.

~~2. If a tenant is guilty of an unlawful detainer pursuant to this section, the landlord may seek to recover possession of the real property, dwelling unit, recreational vehicle or mobile home pursuant to:~~

~~(a) The provisions of NRS 40.254 or 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act; or~~

~~(b) By serving the tenant with notice to pay or surrender pursuant to subsection 2 of NRS 40.253 and utilizing the procedures for eviction provided in that section. } (Deleted by amendment.)~~

Sec. 16. [NRS 40.2514 is hereby amended to read as follows:

~~40.2514 1. A tenant of real property, a dwelling unit, a recreational vehicle or a mobile home other than a mobile home lot or a recreational vehicle lot for a term less than life is guilty of an unlawful detainer when the tenant:~~

~~[1.] (a) Assigns or sublets the leased premises contrary to the covenants of the lease;~~

~~[2.] (b) Commits or permits waste [thereon;~~

~~3.] on the leased premises;~~

~~(c) Sets up or carries on [therein or thereon] any unlawful business [;~~

~~4.] in or on the leased premises;~~

~~(d) Suffers, permits or maintains on or about the leased premises any nuisance [that consists of conduct or an ongoing condition which constitutes an unreasonable obstruction to the free use of property and causes injury and damage to other tenants or occupants of that property or adjacent buildings or structures,], as defined in NRS 40.140; or~~

~~[5.] (e) Violates any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, therein or thereon,~~

~~and [remains] continues in possession, in person or by subtenant, after service upon the tenant of [3 days'] a notice to [quit.] surrender.~~

~~2. A notice to surrender served pursuant to subsection 1 must:~~

~~(a) Inform the tenant of the specific conduct that constitutes an unlawful detainer as described in subsection 1; and~~

~~(b) Afford the tenant 3 days to surrender the premises.~~

~~3. If a tenant is guilty of an unlawful detainer pursuant to this section, the landlord may seek to recover possession of the real property, dwelling unit, recreational vehicle or mobile home pursuant to the provisions of NRS 40.254 or 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act. } (Deleted by amendment.)~~

Sec. 17. NRS 40.2516 is hereby amended to read as follows:

40.2516 1. A tenant of real property, a dwelling unit, a recreational vehicle or a mobile home other than a mobile home lot or a recreational vehicle lot for a term less than life is guilty of an unlawful detainer when the

tenant continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the **real property, dwelling unit, recreational vehicle** or mobile home is held, other than those mentioned in NRS 40.250 to ~~[40.252,]~~ **40.254**, inclusive, ~~[and NRS 40.254, sections 5, 6 and 7 of this act,]~~ and after notice in writing, requiring in the alternative the performance of the condition or covenant or the surrender of the **real property, dwelling unit, recreational vehicle or mobile home**, served upon the tenant, and, if there is a subtenant in actual occupation of the premises ~~[,]~~ **or property**, also upon the subtenant, remains uncomplished with for 5 days after the service thereof. Within ~~[3]~~ 5 days after the service, the tenant, or any subtenant in actual occupation of the premises ~~[,]~~ **or property**, or any mortgagee of the term, or other person, interested in its continuance, may perform the condition or covenant and thereby save the lease from forfeiture; but if the covenants and conditions of the lease, violated by the lessee, cannot afterwards be performed, then no notice need be given.

2. *If a tenant is guilty of an unlawful detainer pursuant to this section, the landlord may seek to recover possession of the real property, dwelling unit, recreational vehicle or mobile home pursuant to the provisions of NRS 40.254 or 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act.*

Sec. 18. ~~[NRS 40.252 is hereby amended to read as follows:
40.252 For the purposes of NRS 40.250 to [40.252,] 40.254, inclusive, and [NRS 40.254,] sections 5, 6 and 7 of this act;~~

~~1. It is unlawful for a landlord to attempt by contract or other agreement to shorten the specified periods of notice and any such contract or agreement is void.~~

~~2. Notice to [quit or] surrender the premises which was given by one colessor of [real property or] a dwelling unit, a recreational vehicle, a mobile home or real property is valid unless it is affirmatively shown that one or more of the other colessors did not authorize the giving of the notice.] (Deleted by amendment.)~~

Sec. 19. ~~[NRS 40.253 is hereby amended to read as follows:
40.253 1. Except as otherwise provided in subsection [10,] 12, in addition to the remedy provided in NRS [40.2512 and] 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act when the tenant of any dwelling [, apartment,] unit, mobile home, recreational vehicle, real property or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may utilize the summary procedures for eviction provided in this section.~~

~~2. The landlord or the landlord's agent shall serve or have served on the tenant in accordance with the provisions of NRS 40.280 a notice in writing, requiring in the alternative [the payment of] that the tenant pay the rent and~~

~~thereby save the lease from forfeiture, contest the notice or [the] surrender [of] the premises:~~

~~—(a) [At] **Except as otherwise provided in paragraph (b),** at or before noon of the fifth full **judicial** day following the day of service; or~~

~~—(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the **For a short term** tenancy, [has not continued for more than 45 days,] at or before noon of the fourth full day following the day of service.~~

~~As used in this subsection, “day of service” means the day the landlord or the landlord’s agent personally delivers the notice to the tenant. If personal service was not so delivered, the “day of service” means the day the notice is delivered, after posting and mailing pursuant to [subsection 2,] **NRS 40.280**, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the “day of service” shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.~~

~~—[2. A landlord or the landlord’s agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or the landlord’s agent:~~

~~—(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and~~

~~—(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord’s agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord’s agent.]~~

~~—3. A notice served pursuant to subsection [1 or] 2 must:~~

~~—(a) Identify the court that has jurisdiction over the matter; and~~

~~—(b) Advise the tenant:~~

~~—(1) Of the tenant’s right to contest the matter by filing, within the time specified in subsection [1] 2 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or **the reasons why the tenant** is not in default in the payment of the rent;~~

~~—(2) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to remove the tenant within 24 hours after **the sheriff’s or constable’s** receipt of the order [; and] **from the court;**~~

~~(3) That, pursuant to NRS 118A.390, a tenant may seek relief if a landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises or willfully interrupts or causes or permits the interruption of an essential service required by the rental agreement or chapter 118A of NRS [4.] ; and~~

~~(4) Of the exact amount of unpaid charges that must be paid before the expiration of the time specified in subsection 2. This amount may include any unpaid rent, unpaid utility charges required pursuant to a written rental agreement, reasonable charges for late payment of rent or dishonored checks if authorized by a rental agreement and any unpaid security. As used in this subparagraph, "security" has the meaning ascribed to it in NRS 118A.240.~~

~~4. Upon service of the written notice to surrender required by subsection 2, the tenant shall, within the time specified in the notice:~~

~~(a) Surrender the premises to the landlord or the landlord's agent, in which case an affidavit of complaint may not be filed pursuant to subsection 6 and a summary order for removal or nonadmittance may not be issued pursuant to subsection 7;~~

~~(b) Pay to the landlord or the landlord's agent the entire amount of unpaid charges due to be paid as stated in the notice to surrender pursuant to subparagraph (4) of paragraph (b) of subsection 3; or~~

~~(c) Contest the matter by filing an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or the reasons that the tenant is not in default in the payment of the rent. A file-stamped copy of the affidavit must be served by mail upon the issuer of the notice to surrender.~~

~~5. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.~~

~~[5.] 6. Upon [noncompliance with] the expiration of the written notice [4.]~~

~~(a) The] to surrender;~~

~~(a) If the tenant has not paid to the landlord or the landlord's agent the entire amount of unpaid charges due to be paid as stated in the notice to surrender and has not filed an affidavit pursuant to paragraph (c) of subsection 4, the landlord must make reasonable efforts to determine whether the tenant has surrendered or vacated the premises. If the landlord reasonably determines that the tenant has surrendered or vacated the premises and has not filed an affidavit pursuant to paragraph (c) of subsection 4, the landlord may provide for the nonadmittance of the tenant by locking or otherwise, except when prohibited by the provisions of NRS 118A.480, and must not file an affidavit of complaint pursuant to paragraph (b).~~

~~(b) If the landlord determines that the tenant has not surrendered or vacated the premises and has not paid the entire amount of unpaid charges due to be paid as stated in the notice to surrender pursuant to subparagraph (4) of paragraph (b) of subsection 3, the landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling [, apartment,] **unit**, mobile home, recreational vehicle, **real property** or commercial premises are located or to the district court of the county in which the dwelling [, apartment,] **unit**, mobile home, recreational vehicle, **real property** or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after the sheriff's or constable's receipt of the order [,] **from the court**. The affidavit must state or contain:~~

- ~~— (1) The date the tenancy commenced.~~
- ~~— (2) The amount of periodic rent reserved.~~
- ~~— (3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.~~
- ~~— (4) The date the rental payments became delinquent.~~
- ~~— (5) The length of time the tenant has remained in possession without paying rent.~~
- ~~— (6) The amount of rent claimed due and delinquent [.~~
- ~~— (7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.~~
- ~~— (8)] at the time of the filing of the affidavit of complaint.~~
- ~~— (7) A copy of the written notice served on the tenant [.~~
- ~~— (9)] pursuant to subsection 2 and, if applicable, a copy of the notice of change of ownership served on the tenant pursuant to NRS 40.255 if the property has been purchased as a residential foreclosure.~~
- ~~— (8) Proof of service of all written notices as required by NRS 40.280.~~
- ~~— (9) A copy of the signed written rental agreement, if any.~~

~~[(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.~~

~~— 6.] If the written rental agreement has been lost or destroyed, the landlord or the landlord's agent may attach an affidavit or declaration, signed under penalty of perjury, stating such loss or destruction.~~

~~— 7. Upon the timely filing by the tenant of the affidavit permitted in subsection [3,] 4, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection [5,] 6, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of~~

any affidavit or notice provided for in this section. If the court determines that ~~[there]~~—

~~—(a) There is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. [If the court determines that there] **The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled.**~~

~~—(b) There is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive [The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.~~

~~—7.] , and sections 2, 3 and 4 of this act.~~

~~—8. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 ~~calendar~~ days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 ~~calendar~~ days after:~~

~~—(a) The tenant has vacated or been removed from the premises; and~~

~~—(b) A copy of those charges has been requested by or provided to the tenant, ~~→ whichever is later.~~~~

~~—[8.] 9. Upon the filing of a motion pursuant to subsection [7.] 8, the court shall schedule a hearing on the motion. The hearing must be held within 10 ~~judicial~~ days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:~~

~~—(a) Determine the **reasonable and actual** costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230 and any accumulating daily costs; and~~

~~—(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.~~

~~—[9.] 10. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1) **payment of the entire amount of unpaid charges due to be paid as stated in the notice to surrender pursuant to subparagraph (4) of paragraph (b) of subsection 3** or if the refusal is based on the fact that the tenant has not paid **or is unable to pay other charges due**~~

~~pursuant to a contract, including, without limitation, collection fees, attorney's fees or other [costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.~~

~~10.] charges that have become due since the notice was served.~~

~~11. The procedures for eviction provided in this section determine possessory rights only and do not preclude an action by a landlord for any damages or other relief to which the landlord may be entitled.~~

~~12. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection [6] 8 of NRS 40.215.]~~

(Deleted by amendment.)

Sec. 20. NRS 40.254 is hereby amended to read as follows:

40.254 **1.** Except as otherwise provided by specific statute, in addition to the remedy provided in ~~[NRS 40.251 and in]~~ NRS 40.290 to 40.420, inclusive, **and sections 2, 3 and 4 of this act** when the tenant of a dwelling unit, ~~[which is subject to the provisions of chapter 118A of NRS,]~~ part of a low-rent housing program operated by a public housing authority, a mobile home or a recreational vehicle is guilty of an unlawful detainer ~~[.] pursuant to NRS 40.250, 40.251, 40.2514 or 40.2516, for section 5, 6 or 7 of this act,]~~ the landlord ~~[is entitled to]~~ **or the landlord's agent may utilize** the summary procedures **for eviction** as provided in NRS 40.253 except that ~~it~~

~~1. Written this section.~~

~~2. Upon the expiration of any] written notice to surrender the premises must:~~

~~(a) Be given to [required pursuant to NRS 40.250, 40.251, 40.2514 or 40.2516 or section 5, 6 or 7 of this act, or upon the holdover of any tenant after expiration of the lease term or termination of the rental agreement as set forth in NRS 40.250, the landlord or the landlord's agent must serve] the tenant [with a written notice] in accordance with the provisions of NRS 40.280~~

~~;~~

~~(b) Advise [, requiring the surrender of the premises on or before the fifth judicial day of service of the notice.~~

~~As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to NRS 40.280, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.~~

~~3. A notice served pursuant to subsection 2 must advise] the tenant of [~~

~~(a) Off] the court that has jurisdiction over the matter; and~~

~~(c) Advise the tenant of [~~

~~—(b) That the tenant is guilty of an unlawful detainer and, except as otherwise provided in paragraph (c), is afforded 5 judicial days to surrender the premises;~~

~~—(c) Off~~ the tenant's right to ~~{contest}~~;

~~—(1) Contest~~ the notice by filing ~~{within 5 days}~~ before the court's close of business on the fifth judicial day after the day of service of the notice an affidavit with the court that has jurisdiction over the matter ~~{that}~~ stating the reasons why the tenant is not guilty of an unlawful detainer ~~{~~

~~—2—;~~

~~—(d) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to remove the tenant within 24 hours after the sheriff's or constable's receipt of the order from the court; and~~

~~—(e) That, pursuant to NRS 118A.390, a tenant may seek relief if a landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises or willfully interrupts or causes or permits the interruption of an essential service required by the rental agreement or chapter 118A of NRS.~~

~~—4. Upon service of the written notice to surrender required by subsection 2, the tenant shall, within the time specified in the notice:~~

~~—(a) Surrender the premises to the landlord or the landlord's agent, in which case an affidavit of complaint may not be filed pursuant to subsection 5 and a summary order for removal or nonadmittance may not be issued pursuant to subsection 6; or~~

~~—(b) Contest the matter by filing an affidavit with the court that has jurisdiction over the matter stating the reasons why the tenant is not guilty of an unlawful detainer. A file stamped copy of the affidavit must be served by mail upon the issuer of the notice to surrender.~~

~~—5. Upon the expiration of the written notice to surrender:~~

~~—(a) If the tenant has not filed an affidavit pursuant to paragraph (b) of subsection 4, the landlord must make reasonable efforts to determine whether the tenant has surrendered or vacated the premises. If the landlord reasonably determines that the tenant has surrendered or vacated the premises and has not filed an affidavit pursuant to paragraph (b) of subsection 4, the landlord may provide for the nonadmittance of the tenant by locking or otherwise, except when prohibited by the provisions of NRS 118A.480, and must not file an affidavit of complaint pursuant to paragraph (b).~~

~~—(b) If the landlord determines that the tenant has not surrendered or vacated the premises, the landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling unit, part of a low-rent housing program operated by a public housing authority, mobile home or recreational vehicle is located or the district court of the county in which the dwelling unit, part of a low-rent~~

~~housing program operated by a public housing authority, mobile home or recreational vehicle is located, whichever has jurisdiction over the matter; }
or~~

(2) Request that the court stay the execution of the order for removal of the tenant or order providing for nonadmittance of the tenant for a period not exceeding 10 days pursuant to subsection 2 of NRS 70.010, stating the reasons why such a stay is warranted.

2. The affidavit of the landlord or the landlord's agent submitted to the justice court or the district court must state or contain:

(a) ~~1(1)~~ The date when the tenancy commenced, ~~and~~ the term of the tenancy ~~if any~~, and, if any, a ~~1~~

~~(2) A~~ copy of the rental agreement, ~~1~~

~~(b) The, if any. If the rental agreement has been lost or destroyed, the landlord or the landlord's agent may attach an affidavit or declaration, signed under penalty of perjury, stating such loss or destruction.~~

~~(3) If the tenancy or rental agreement was terminated pursuant to NRS 118A.430, the~~

~~(b) The~~ date when the tenancy or rental agreement allegedly terminated ~~1~~

~~(c) and the basis for the termination.~~

~~(4)~~ The date when written notice to surrender was given to the tenant ~~became subject~~ pursuant to the provisions of NRS ~~40.250,~~ 40.251 ~~to~~, 40.2514 ~~to~~, or 40.2516, inclusive, ~~or section 5, 6 or 7 of this act,~~ together with any ~~supporting~~ facts ~~1~~

~~(d) The date when the~~ supporting the notice.

~~(5) A copy of all~~

~~(d) The date when the~~ written notice was given, a copy of the notice and a statement that notice was served in accordance with ~~notices served on the tenant~~ NRS 40.280 and, if applicable, a copy of the notice of change of ownership served on the tenant pursuant to NRS 40.255 if the property has been purchased as a residential foreclosure.

~~(6) Proof of service of all written notices as required by NRS 40.280.~~

(e) A statement that the claim for relief was authorized by law.

3. ~~16. Upon the timely filing by the tenant of the affidavit permitted in paragraph (b) of subsection 4, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that:~~

~~(a) There is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to remove the tenant within 24 hours after the sheriff's or constable's receipt of the order from the court. The issuance of a summary order for removal of the tenant does~~

~~not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled.~~

~~—(b) There is a legal defense as to the alleged unlawful detainer, the court must refuse to grant either party any relief and, except as otherwise provided in this subsection, must require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act.~~

~~—7. If the alleged unlawful detainer is based upon paragraph (c) of subsection 1 of NRS 40.2514:~~

~~—(a) The refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.~~

~~—(b)~~ If the tenant is found guilty of unlawful detainer ~~for~~ as a result of the tenant's violation of any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, the landlord is entitled to be awarded any reasonable attorney's fees incurred by the landlord or the landlord's agent as a result of a hearing, if any, held pursuant to subsection 6 of NRS 40.253 wherein the tenant contested the eviction.

Sec. 21. NRS 40.255 is hereby amended to read as follows:

40.255 1. Except as otherwise provided in subsections 2 and 7, in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a 3-day written notice to ~~[quit]~~ **surrender** has been served upon the person may be removed as prescribed in NRS 40.290 to 40.420, inclusive ~~for~~, **and sections 2, 3 and 4 of this act:**

(a) Where the property or mobile home has been sold under an execution against the person, or against another person under whom the person claims, and the title under the sale has been perfected;

(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by the person, or by another person under whom the person claims, and the title under the sale has been perfected;

(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by the person, or by another person under whom the person claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by the person, or by another person under whom the person claims, and the title under the sale has been perfected.

2. If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420, inclusive, **and sections 2, 3 and 4 of this act** after receiving a notice of the change of ownership of the real property or mobile home and after the

expiration of a notice period beginning on the date the notice was received by the tenant or subtenant and expiring:

(a) For all periodic tenancies with a period of less than 1 month, after not less than the number of days in the period; and

(b) For all other periodic tenancies or tenancies at will, after not less than 60 days.

3. During the notice period described in subsection 2:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property; and

(b) The tenant or subtenant continues to have the rights, obligations and liabilities that the tenant or subtenant had pursuant to chapter 118A of NRS under the lease or rental agreement which the tenant or subtenant entered into with the previous owner or landlord regarding the property.

4. The notice described in subsection 2 must contain a statement:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement the tenant or subtenant entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection 2; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings ~~H~~ , ***including, without limitation, proceedings conducted pursuant to NRS 40.253 and 40.254.***

5. If the property has been sold as a residential foreclosure in any of the cases described in paragraph (b) or (c) of subsection 1, no person may enter a record of eviction for a tenant or subtenant who vacates a property during the notice period described in subsection 2.

6. If the property has been sold as a residential foreclosure in any of the cases described in paragraphs (b) or (c) of subsection 1, nothing in this section shall be deemed to prohibit:

(a) The tenant from vacating the property at any time before the expiration of the notice period described in subsection 2 without any obligation to the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or

(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:

(1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or

(2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection 2.

7. This section does not apply to the tenant of a mobile home lot in a mobile home park.

8. As used in this section, “residential foreclosure” means the sale of a single family residence pursuant to NRS 40.430 or under a power of sale granted by NRS 107.080. As used in this subsection, “single family residence” means a structure that is comprised of not more than four units.

Sec. 22. NRS 40.260 is hereby amended to read as follows:

40.260 In all cases of tenancy upon agricultural land where the tenant has held over and retained possession for more than 60 days after the expiration of the tenant’s term, without any demand of possession or notice to ~~quit~~ **surrender** by the landlord, or the successor in estate of the landlord, if any there be, the tenant shall be deemed to be holding by permission of the landlord, or the successor in the estate of the landlord, if any there be, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during the year, and such holding over for the period aforesaid shall be taken and construed as a consent on the part of the tenant to hold for another year.

Sec. 23. NRS 40.280 is hereby amended to read as follows:

40.280 1. Except as otherwise provided in NRS 40.253, the ~~The~~ notices required by NRS ~~40.251~~ ~~40.230~~ to 40.260, inclusive, ~~may~~ **must** be served ~~upon a tenant of commercial property;~~

(a) ~~By~~ ~~Except as otherwise provided in this paragraph and paragraph (b), by~~ delivering a copy to the tenant personally, in the presence of a witness. ~~If service is accomplished by the sheriff, constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required.~~

(b) If the tenant is absent from the tenant’s place of residence or from the tenant’s usual place of business, by leaving a copy with a person of suitable age and discretion at either place ~~the business~~ and mailing a copy to the tenant at the tenant’s place of residence or usual place of business; ~~or (and to the place where the leased property is situated, if different.)~~

(c) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the leased property, delivering a copy to a person there residing, if the person can be found, and mailing a copy to the tenant at the ~~tenant’s usual place of business and to the~~ place where the leased property is situated ~~, if different.~~

2. ~~Except as otherwise provided in subsection 3, the notices required by NRS 40.230 to 40.260, inclusive, must be served upon a tenant of property other than commercial property.~~

~~(a) Except as otherwise provided in this paragraph and paragraph (b), by delivering a copy to the tenant personally, in the presence of a witness. If service is accomplished by the sheriff, constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required.~~

~~(b) If the tenant is absent from the tenant's place of residence, by leaving a copy with a person of suitable age and discretion at the residence and mailing a copy to the tenant at the tenant's place of residence.~~

~~(c) If the place of residence cannot be ascertained or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the leased property and mailing a copy to the tenant at the place where the leased property is situated.~~

~~3. The notice required by paragraph (b) of subsection 2 of NRS 40.253 must be served upon a tenant who is leasing property under a short term tenancy.~~

~~(a) By delivering a copy to the tenant personally, in the presence of a witness.~~

~~(b) If the tenant is absent from the tenant's place of residence or the notice cannot otherwise be delivered in person, by posting a copy in a conspicuous place on the leased property, mailing the notice to the tenant by overnight mail and delivering the notice to the sheriff or constable for service in the manner set forth in subsection 2.~~

~~4. The sheriff or constable shall not accept a notice for service pursuant to subsection 3 unless the notice is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section and NRS 40.253, which set forth the lawful procedures for eviction from a short term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.~~

~~5. The notices required by NRS 40.230 and 40.240 and section 3 of this act must be served upon an unlawful or unauthorized occupant:~~

~~(a) Except as otherwise provided in this paragraph and paragraph (b), by delivering a copy to the unlawful or unauthorized occupant personally, in the presence of a witness. If service is accomplished by the sheriff, constable or a person who is licensed as a process server pursuant to chapter 648 of NRS, the presence of a witness is not required.~~

~~(b) If the unlawful or unauthorized occupant is absent from the real property, by leaving a copy with a person of suitable age and discretion at the property and mailing a copy to the unlawful or unauthorized occupant at the place where the property is situated. If the occupant is unknown, the notice must be addressed to "Current Occupant."~~

~~(c) If a person of suitable age or discretion cannot be found at the real property, by posting a copy in at least two separate and conspicuous places on the property and mailing a copy to the unlawful or unauthorized occupant at the place where the property is situated. If the occupant is unknown, the notice must be addressed to "Current Occupant."~~

~~3. Service upon a subtenant may be made in the same manner as provided in subsection 1.~~

~~{3. Before, 2 and 3.~~

~~6. To the extent that the provisions of this subsection do not conflict with NRS 31.840 to 31.950, inclusive, before a writ of possession or an~~

4. Proof of service of any notice required by NRS 40.230 to 40.260, inclusive, must be filed with the court before:

~~(a) An order [to remove] for removal of a tenant is issued pursuant to subsection 5 of NRS 40.253, a landlord shall file with the court a proof of service of any notice required by that section. Before a person may be removed as prescribed in NRS 40.290 to 40.420, inclusive, a landlord NRS 40.230 to 40.260, inclusive, shall file be filed with the court proof of service of any notice required pursuant to NRS 40.255. Except as otherwise provided in subsection 4, this proof and pursuant to NRS 40.253 or 40.254;~~

(b) An order for removal of an unlawful or unauthorized occupant is issued pursuant to section 3 of this act; or

(c) A writ of restitution is issued pursuant to NRS 40.290 to 40.420, inclusive, and sections 2.3 and 4 of this act.

5. Proof of service of an order or writ filed pursuant to subsection 4 must consist of:

(a) ~~[A statement.]~~ Except as otherwise provided in paragraphs (b) and (c):

(1) If the notice was [delivered to the tenant in person,] served pursuant to paragraph (a) of subsection 1 or paragraph (a) of subsection 2, an affidavit or declaration signed by the tenant or the unlawful or unauthorized occupant, as applicable, and a witness, signed under penalty of perjury by the server, acknowledging that the tenant or occupant received the notice on a specified date . ~~;~~

~~—(b) A~~

(2) If the notice was served pursuant to paragraph (b) or (c) of subsection 1 or paragraph (b) or (c) of subsection 2, an affidavit or declaration [signed by the tenant and a witness,] signed under penalty of perjury by the person who served the notice, stating the date and manner of service and accompanied by a confirmation of delivery or certificate of mailing issued by the United States Postal Service ~~;~~ or confirmation of actual delivery by a private postal service.

~~[(c) The endorsement of]~~

(b) If the notice was served by a sheriff, a constable or [other] a person who is licensed as a process server pursuant to chapter 648 of NRS, a written statement, endorsed by the person who served the notice, stating the [time] date and manner of service.

~~[4.—If]~~ The statement must also include the number of the badge or license of the person who served the notice.

(c) For a short-term tenancy, if service of the notice was not delivered in person [to a tenant whose rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, proof of service must include:

~~—(a) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or the landlord's agent; or~~

—(b) The endorsement of a] :

(1) A ~~written statement of the~~ certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or the landlord's agent; or

(2) The endorsement of a sheriff or constable stating the:

~~{(1)}~~ (I) Time and date the request for service was made by the landlord or the landlord's agent;

~~{(2)}~~ (II) Time, date and manner of the service; and

~~{(3)}~~ Fees paid for the service.]

~~(III) [The number of the badge of the sheriff or constable.~~

~~(2) Confirmation or a number, code or other information for tracking of actual delivery by a recognized overnight delivery service.] Fees paid for the service.~~

Sec. 24. NRS 40.330 is hereby amended to read as follows:

40.330 When, upon the trial of any proceeding under NRS 40.220 to 40.420, inclusive, **and sections 2 to 7, inclusive, of this act**, it appears from the evidence that the defendant has been guilty of either a forcible entry or forcible or unlawful detainer, and other than the offense charged in the complaint, the judge must order that such complaint be forthwith amended to conform to such proofs. Such amendment must be without any imposition of terms. No continuance must be permitted upon account of such amendment, unless the defendant, by affidavit filed, shows to the satisfaction of the court good cause therefor.

Sec. 25. NRS 40.340 is hereby amended to read as follows:

40.340 The court or justice of the peace may for good cause shown adjourn the trial of any cause under NRS 40.220 to 40.420, inclusive, **and sections 2 to 7, inclusive, of this act** not exceeding 5 days; and when the defendant, or the defendant's agent or attorney, shall make oath that the defendant cannot safely proceed to trial for want of some material witness, naming that witness, stating the evidence that the defendant expects to obtain, showing that the defendant has used due diligence to obtain such witness and believes that if an adjournment be allowed the defendant will be able to procure the attendance of such witness, or the witness's deposition, in time to produce the same upon the trial, in which case, if such person or persons will give bond, with one or more sufficient sureties, conditioned to pay the ~~complainant~~ **plaintiff** for all rent that may accrue during the pending of such suit, and all costs and damages consequent upon such adjournment, the court or justice of the peace shall adjourn the cause for such reasonable time as may appear necessary, not exceeding 30 days.

Sec. 26. NRS 40.350 is hereby amended to read as follows:

40.350 If the ~~complainant~~ **plaintiff** admit that the evidence stated in the affidavit mentioned in NRS 40.340 would be given by such witness, and agree that it be considered as actually given on the trial, or offered and overruled as improper, the trial shall not be adjourned.

Sec. 27. ~~NRS 40.385 is hereby amended to read as follows:~~

~~40.385 [Upon an]~~

~~1. Either party may appeal [from] an order entered pursuant to NRS 40.253 [;~~

~~1.] or 40.254 or section 3 of this act.~~

~~2. Except as otherwise provided in this [subsection,] section, a stay of execution may be obtained by filing with the trial court a bond in the amount of \$250 to cover the expected costs on appeal. A surety upon the bond submits to the jurisdiction of the appellate court and irrevocably appoints the clerk of that court as the surety's agent upon whom papers affecting the surety's liability upon the bond may be served. Liability of a surety may be enforced, or the bond may be released, on motion in the appellate court without independent action.~~

~~3. A tenant of commercial property may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of the unpaid rent claim of the landlord.~~

~~[2.] 4. A tenant who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If the tenant fails to pay such rent, the landlord may initiate new proceedings for a summary eviction by serving the tenant with a new notice pursuant to NRS 40.253 [.] or 40.254 or section 3 of this act.] (Deleted by amendment.)~~

Sec. 28. NRS 40.390 is hereby amended to read as follows:

40.390 In all cases of appeal under NRS 40.220 to 40.420, inclusive, **and sections 2 to 7, inclusive, of this act**, the appellate court shall not dismiss or quash the proceedings for want of form, provided the proceedings have been conducted substantially according to the provisions of NRS 40.220 to 40.420, inclusive; **and sections 2 to 7, inclusive, of this act**, and amendments to the complaint, answer or summons, in matters of form only, may be allowed by the court at any time before final judgment upon such terms as may be just; and all matters of excuse, justification or avoidance of the allegations in the complaint may be given in evidence under the answer.

Sec. 29. NRS 40.400 is hereby amended to read as follows:

40.400 The provisions of NRS, Nevada Rules of Civil Procedure, **Justice Court Rules of Civil Procedure** and Nevada Rules of Appellate Procedure relative to civil actions, appeals and new trials, so far as they are not inconsistent with the provisions of NRS 40.220 to 40.420, inclusive, **and sections 2 to 7, inclusive, of this act**, apply to the proceedings mentioned in those sections.

Sec. 30. NRS 4.060 is hereby amended to read as follows:

4.060 1. Except as otherwise provided in this section and NRS 33.017 to 33.100, inclusive, each justice of the peace shall charge and collect the following fees:

(a) On the commencement of any action or proceeding in the justice court, other than in actions commenced pursuant to chapter 73 of NRS, to be paid by the party commencing the action:

If the sum claimed does not exceed \$2,500.....	\$50.00
If the sum claimed exceeds \$2,500 but does not exceed \$5,000.....	100.00
If the sum claimed exceeds \$5,000 but does not exceed \$10,000.....	175.00
In a civil action for unlawful detainer pursuant to NRS 40.290 to 40.420, inclusive, and sections 2, 3 and 4 of this act in which a notice to ~~quit~~ surrender has been served pursuant to NRS 40.255	225.00
In all other civil actions	50.00

(b) For the preparation and filing of an affidavit and order in an action commenced pursuant to chapter 73 of NRS:

If the sum claimed does not exceed \$1,000.....	\$45.00
If the sum claimed exceeds \$1,000 but does not exceed \$2,500.....	\$65.00
If the sum claimed exceeds \$2,500 but does not exceed \$5,000.....	85.00
If the sum claimed exceeds \$5,000 but does not exceed \$7,500.....	125.00

(c) On the appearance of any defendant, or any number of defendants answering jointly, to be paid by the defendant or defendants on filing the first paper in the action, or at the time of appearance:

In all civil actions	\$50.00
For every additional defendant, appearing separately	25.00

(d) No fee may be charged where a defendant or defendants appear in response to an affidavit and order issued pursuant to the provisions of chapter 73 of NRS.

(e) For the filing of any paper in intervention..... \$25.00
 (f) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court, other than a writ of restitution..... \$25.00
 (g) For the issuance of any writ of restitution \$75.00 || (h) For filing a notice of appeal, and appeal bonds | \$25.00 |

One charge only may be made if both papers are filed at the same time.

(i) For issuing supersedeas to a writ designed to enforce a judgment or order of the court

 \$25.00 |

- (j) For preparation and transmittal of transcript and papers on appeal \$25.00
- (k) For celebrating a marriage and returning the certificate to the county recorder or county clerk \$75.00
- (l) For entering judgment by confession \$50.00
- (m) For preparing any copy of any record, proceeding or paper, for each page..... \$.50
- (n) For each certificate of the clerk, under the seal of the court..... \$3.00
- (o) For searching records or files in his or her office, for each year \$1.00
- (p) For filing and acting upon each bail or property bond..... \$50.00

2. A justice of the peace shall not charge or collect any of the fees set forth in subsection 1 for any service rendered by the justice of the peace to the county in which his or her township is located.

3. A justice of the peace shall not charge or collect the fee pursuant to paragraph (k) of subsection 1 if the justice of the peace performs a marriage ceremony in a commissioner township.

4. Except as otherwise provided by an ordinance adopted pursuant to the provisions of NRS 244.207, the justice of the peace shall, on or before the fifth day of each month, account for and pay to the county treasurer all fees collected pursuant to subsection 1 during the preceding month, except for the fees the justice of the peace may retain as compensation and the fees the justice of the peace is required to pay to the State Controller pursuant to subsection 5.

5. The justice of the peace shall, on or before the fifth day of each month, pay to the State Controller:

(a) An amount equal to \$5 of each fee collected pursuant to paragraph (k) of subsection 1 during the preceding month. The State Controller shall deposit the money in the Account for Aid for Victims of Domestic Violence in the State General Fund.

(b) One-half of the fees collected pursuant to paragraph (p) of subsection 1 during the preceding month. The State Controller shall deposit the money in the Fund for the Compensation of Victims of Crime.

6. Except as otherwise provided in subsection 7, the county treasurer shall deposit 25 percent of the fees received pursuant to subsection 4 into a special account administered by the county and maintained for the benefit of each justice court within the county. The money in that account must be used only to:

(a) Acquire land on which to construct additional facilities or a portion of a facility for a justice court or a multi-use facility that includes a justice court;

(b) Construct or acquire additional facilities or a portion of a facility for a justice court or a multi-use facility that includes a justice court;

(c) Renovate, remodel or expand existing facilities or a portion of an existing facility for a justice court or a multi-use facility that includes a justice court;

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or a portion of a facility or the renovation, remodeling or expansion of an existing facility or a portion of an existing facility for a justice court or a multi-use facility that includes a justice court;

(e) Acquire advanced technology for the use of a justice court;

(f) Acquire equipment or additional staff to enhance the security of the facilities used by a justice court, justices of the peace, staff of a justice court and residents of this State who access the justice courts;

(g) Pay for the training of staff or the hiring of additional staff to support the operation of a justice court;

(h) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or for the construction, renovation, remodeling or expansion of facilities for a justice court or a multi-use facility that includes a justice court; and

(i) Pay for one-time projects for the improvement of a justice court.

➡ Any money remaining in the account at the end of a fiscal year must be carried forward to the next fiscal year.

7. The county treasurer shall, if necessary, reduce on an annual basis the amount deposited into the special account pursuant to subsection 6 to ensure that the total amount of fees collected by a justice court pursuant to this section and paid by the justice of the peace to the county treasurer pursuant to subsection 4 is, for any fiscal year, not less than the total amount of fees collected by that justice court and paid by the justice of the peace to the county treasurer for the fiscal year beginning July 1, 2012, and ending June 30, 2013.

8. Each justice court that collects fees pursuant to this section shall submit to the board of county commissioners of the county in which the justice court is located an annual report that contains:

(a) An estimate of the amount of money that the county treasurer will deposit into the special account pursuant to subsection 6 from fees collected by the justice court for the following fiscal year; and

(b) A proposal for any expenditures by the justice court from the special account for the following fiscal year.

Sec. 31. NRS 21.130 is hereby amended to read as follows:

21.130 1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:

(a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale is to take place, for such a time as may be reasonable, considering the character and condition of the property.

(b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 or more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a

newspaper, if there is one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.

(c) In case of real property, by:

(1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;

(2) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;

(3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than \$500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse;

(4) Recording a copy of the notice in the office of the county recorder; and

(5) If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

2. If the sale of property is a residential foreclosure, the notice must include, without limitation:

(a) The physical address of the property; and

(b) The contact information of the party who is authorized to provide information relating to the foreclosure status of the property.

3. If the sale of property is a residential foreclosure, a separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection 1. The separate notice must be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under

chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes, eviction proceedings may begin against you after you have been given a notice to ~~quit.~~ **surrender.**

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

(1) Delivering a copy to you personally in the presence of a witness ~~to~~ **, unless service is accomplished by a sheriff, constable or licensed process server, in which case the presence of a witness is not required;**

(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business ~~to~~ **and to the place where the leased property is situated, if different;** or

(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property ~~to, delivering a copy to a person residing there, if a person can be found,~~ **and mailing a copy to you at the place where the leased property is situated.**

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor or any other person entitled to notice has not been properly notified as required in this section and NRS 21.075 and 21.076.

5. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 32. NRS 107.087 is hereby amended to read as follows:

107.087 1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default and election to sell and the notice of sale must:

(a) Be posted in a conspicuous place on the property not later than:

(1) For a notice of default and election to sell, 100 days before the date of sale; or

(2) For a notice of sale, 15 days before the date of sale; and

(b) Include, without limitation:

(1) The physical address of the property; and

(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.

2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

3. A separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or the grantor's successor in interest, in actual occupation of the premises not later than 15 days before the date of sale. The separate notice must be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under

chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to ~~quit.~~ **surrender.**

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

(1) Delivering a copy to you personally in the presence of a witness ~~to~~ **, unless service is accomplished by a sheriff, constable or licensed process server, in which case the presence of a witness is not required;**

(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business ~~to~~ **and to the place where the leased property is situated, if different;** or

(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property ~~to, delivering a copy to a person residing there, if a person can be found,~~ **and mailing a copy to you at the place where the leased property is situated.**

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The posting of a notice required by this section must be completed by a process server licensed pursuant to chapter 648 of NRS or any constable or sheriff of the county in which the property is located.

5. As used in this section, “residential foreclosure” has the meaning ascribed to it in NRS 107.080.

Sec. 33. NRS 116.4112 is hereby amended to read as follows:

116.4112 1. A declarant of a common-interest community containing converted buildings, and any dealer who intends to offer units in such a common-interest community, shall give each of the residential tenants and any residential subtenant in possession of a portion of a converted building notice of the conversion and provide those persons with the public offering statement no later than 120 days before the tenants and any subtenant in possession are required to vacate. The notice must set forth generally the rights of tenants and subtenants under this section and must be hand-delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required to vacate upon less than 120 days’ notice, except by reason of nonpayment of rent, waste or conduct that disturbs other tenants’ peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure to give notice as required by this section is a defense to an action for possession. If, during the 6-month period before the recording of a declaration, a majority of the tenants or any subtenants in possession of any portion of the property described in such declaration has been required to vacate for reasons other than nonpayment of rent, waste or conduct that disturbs other tenants’ peaceful enjoyment of the premises, a rebuttable presumption is created that the owner of such property intended to offer the vacated premises as units in a common-interest community at all times during that 6-month period.

2. For 60 days after delivery or mailing of the notice described in subsection 1, the person required to give the notice shall offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that 60-day period, the offeror may not offer to dispose of an interest in that unit during the following 180 days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This subsection does not apply to any unit in a converted building if that unit will be restricted exclusively to nonresidential use or the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion.

3. If a seller, in violation of subsection 2, conveys a unit to a purchaser for value who has no knowledge of the violation, the recordation of the deed conveying the unit or, in a cooperative, the conveyance of the unit, extinguishes any right a tenant may have under subsection 2 to purchase that unit if the deed states that the seller has complied with subsection 2, but the conveyance does not affect the right of a tenant to recover damages from the seller for a violation of subsection 2.

4. If a notice of conversion specifies a date by which a unit or proposed unit must be vacated and otherwise complies with the provisions of NRS 40.251 and 40.280, the notice also constitutes a notice to ~~{vacate}~~ **surrender** specified by those sections.

5. This section does not permit termination of a lease by a declarant in violation of its terms.

Sec. 34. ~~NRS 118.205 is hereby amended to read as follows:
118.205 A notice provided by a landlord to a tenant pursuant to NRS 118.195:~~

- ~~1. Must advise the tenant of the provisions of that section and specify:
(a) The address or other location of the property;
(b) The date upon which the property will be deemed abandoned and the rental agreement terminated; and
(c) An address for payment of the rent due and delivery of notice to the landlord.~~
- ~~2. Must be served pursuant to subsection [1] 2 or 3 of NRS 40.280.~~
- ~~3. May be included in the notice required by subsection [1] 2 of NRS 40.253.~~ **(Deleted by amendment.)**

Sec. 35. NRS 118A.180 is hereby amended to read as follows:

118A.180 1. Except as otherwise provided in subsection 2, this chapter applies to, regulates and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit or premises located within this State.

2. This chapter does not apply to:

- (a) A rental agreement subject to the provisions of chapter 118B of NRS;
- (b) Low-rent housing programs operated by public housing authorities and established pursuant to the United States Housing Act of 1937, 42 U.S.C. §§ 1437 et seq.;
- (c) Residence in an institution, public or private, incident to detention or the provision of medical, geriatric, educational, counseling, religious or similar service;
- (d) Occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or his or her successor in interest;
- (e) Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

(f) Occupancy in a hotel or motel for less than 30 consecutive days unless the occupant clearly manifests an intent to remain for a longer continuous period;

(g) Occupancy by an employee of a landlord whose right to occupancy is solely conditional upon employment in or about the premises;

(h) Occupancy by an owner of a condominium unit or by a holder of a proprietary lease in a cooperative apartment; ~~for~~

(i) Occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes ~~[-]~~; **or**

(j) Occupancy by a person who is guilty of a forcible entry, as defined in NRS 40.230, or a forcible detainer, as defined in NRS 40.240.

Sec. 36. ~~NRS 118A.460 is hereby amended to read as follows:~~

~~118A.460 1. The landlord may dispose of personal property abandoned on the premises by a former tenant or left on the premises after eviction of the tenant without incurring civil or criminal liability in the following manner:~~

~~(a) The landlord shall reasonably provide for the safe storage of the property for 30 days after the abandonment or eviction or the end of the rental period and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the property to the tenant or his or her authorized representative rightfully claiming the property within that period. The landlord is liable to the tenant only for the landlord's negligent or wrongful acts in storing the property.~~

~~(b) After the expiration of the 30-day period, the landlord may dispose of the property and recover his or her reasonable costs out of the property or the value thereof if the landlord has made reasonable efforts to locate the tenant, has notified the tenant in writing of his or her intention to dispose of the property and 14 days have elapsed since the notice was given to the tenant. The notice must be mailed to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.~~

~~(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.~~

~~2. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (a) of subsection 1 may be resolved using the procedure provided in subsection [7] 8 of NRS 40.253.~~ **(Deleted by amendment.)**

Sec. 37. NRS 118B.086 is hereby amended to read as follows:

118B.086 1. Each manager and assistant manager of a manufactured home park which has 2 or more lots shall complete annually 6 hours of continuing education relating to the management of a manufactured home park.

2. The Administrator shall adopt regulations specifying the areas of instruction for the continuing education required by subsection 1.

3. The instruction must include, but is not limited to, information relating to:

- (a) The provisions of chapter 118B of NRS;
- (b) Leases and rental agreements;

(c) Unlawful detainer and eviction as set forth in NRS 40.215 to 40.425, inclusive ~~11~~, **and sections 2 to 7, inclusive, of this act;**

(d) The resolution of complaints and disputes concerning landlords and tenants of manufactured home parks; and

(e) The adoption and enforcement of the rules and regulations of a manufactured home park.

4. Each course of instruction and the instructor of the course must be approved by the Administrator. The Administrator shall adopt regulations setting forth the procedure for applying for approval of an instructor and course of instruction. The Administrator may require submission of such reasonable information by an applicant as the Administrator deems necessary to determine the suitability of the instructor and the course. The Administrator shall not approve a course if the fee charged for the course is not reasonable. Upon approval, the Administrator shall designate the number of hours of credit allowable for the course.

Sec. 38. [NRS 118B.115 is hereby amended to read as follows:

~~118B.115 1. The landlord of a manufactured home park may require that a person submit a written application to and receive written consent from the landlord before the person moves or causes to be moved a manufactured home or recreational vehicle into the manufactured home park. The landlord shall not unreasonably withhold his or her consent.~~

~~2. If the landlord of a manufactured home park requires written consent pursuant to subsection 1, the landlord shall post and maintain a sign that is clearly readable at the entrance to the manufactured home park which advises the reader of the consent that is required before a person may move or cause to be moved a manufactured home or recreational vehicle into the manufactured home park.~~

~~3. If a person moves or causes to be moved a manufactured home or recreational vehicle into the manufactured home park without the written consent of the landlord, if the landlord requires such consent pursuant to subsection 1, the landlord of that manufactured home park may:~~

~~(a) After providing at least 5 days' written notice to the person, bring an action for an unlawful detainer in the manner prescribed in chapter 40 of NRS; or~~

~~(b) Require the person to sign a rental agreement. If the person refuses to sign the rental agreement within 5 days after such a request, the landlord may, after providing at least 5 days' written notice to the person, bring an action for an unlawful detainer in the manner provided in chapter 40 of NRS.~~

~~4. For the purposes of [NRS 40.251,] **section 6 of this act**, a person who moves or causes to be moved a manufactured home or recreational vehicle into a manufactured home park without the written consent of the landlord, if the landlord requires such consent pursuant to subsection 1, shall be deemed a tenant at will and a lessee of the manufactured home park.~~

~~5. The provisions of this section do not apply to a corporate cooperative park.] (Deleted by amendment.)~~

Sec. 39. ~~[NRS 118B.170 is hereby amended to read as follows:~~

~~118B.170 1. The landlord may require approval of a prospective buyer and tenant before the sale of a tenant's manufactured home or recreational vehicle, if the manufactured home or vehicle will remain in the park. The landlord shall consider the record, if any, of the prospective buyer and tenant concerning the payment of rent. The landlord shall not unreasonably withhold his or her consent.~~

~~2. If a tenant sells his or her manufactured home or recreational vehicle, the landlord may require that the manufactured home or recreational vehicle be removed from the park if it is deemed by the park's written rules or regulations in the possession of the tenants to be in a run-down condition or in disrepair or does not meet the safety standards set forth in NRS 461A.120. If the manufactured home must be inspected to determine compliance with the standards, the person requesting the inspection shall pay for it.~~

~~3. If the landlord requires the approval of a prospective buyer and tenant, the landlord shall:~~

~~(a) Post and maintain a sign which is clearly readable at the entrance to the park which advises the reader that before a manufactured home in the park is sold, the prospective buyer must be approved by the landlord.~~

~~(b) Approve or deny a completed application from a prospective buyer and tenant within 10 business days after the date of the submission of the application.~~

~~(c) Inform the prospective buyer and tenant upon the submission of the completed application of the duty of the landlord to approve or deny the completed application within 10 business days after the date of submission of the completed application.~~

~~4. If the landlord requires the approval of a prospective buyer and tenant of a manufactured home or recreational vehicle and the manufactured home or recreational vehicle is sold without the approval of the landlord, the landlord may:~~

~~(a) After providing at least 5 days' written notice to the buyer and tenant, bring an action for an unlawful detainer in the manner prescribed in chapter 40 of NRS; or~~

~~(b) Require the buyer and tenant to sign a rental agreement. If the buyer and tenant refuse to sign the rental agreement within 5 days after such a request, the landlord may, after providing at least 5 days' written notice to the buyer and tenant, bring an action for an unlawful detainer in the manner provided in chapter 40 of NRS.~~

~~5. For the purposes of [NRS 40.251,] **section 6 of this act**, a person who:~~

~~(a) Purchases a manufactured home or recreational vehicle from a tenant of a manufactured home park which will remain in the park;~~

~~(b) Was required to be approved by the landlord of the manufactured home park before the sale of the manufactured home or recreational vehicle; and~~

~~(c) Was not approved by the landlord before the person purchased that manufactured home or recreational vehicle;~~

~~shall be deemed a tenant at will and a lessee of the manufactured home park.~~

~~6. The provisions of this section do not apply to a corporate cooperative park.~~ **(Deleted by amendment.)**

Sec. 40. NRS 118B.190 is hereby amended to read as follows:

118B.190 1. A written agreement between a landlord and tenant for the rental or lease of a manufactured home lot in a manufactured home park in this State, or for the rental or lease of a lot for a recreational vehicle in an area of a manufactured home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection ~~46~~ 8 of NRS 40.215, must not be terminated by the landlord except upon notice in writing to the tenant served in the manner provided in NRS 40.280:

(a) Except as otherwise provided in paragraph (b), 5 days in advance if the termination is because the conduct of the tenant constitutes a nuisance as defined in NRS 40.140 or violates a state law or local ordinance.

(b) Three days in advance upon the issuance of temporary writ of restitution pursuant to NRS 40.300 on the grounds that a nuisance as defined in NRS 40.140 has occurred in the park by the act of a tenant or any guest, visitor or other member of a tenant's household consisting of any of the following specific activities:

- (1) Discharge of a weapon.
- (2) Prostitution.
- (3) Illegal drug manufacture or use.
- (4) Child molestation or abuse.
- (5) Property damage as a result of vandalism.

(6) Operating a vehicle while under the influence of alcohol or any other controlled substance.

- (7) Elder molestation or abuse.

(c) Except as otherwise provided in subsection 6, 10 days in advance if the termination is because of failure of the tenant to pay rent, utility charges or reasonable service fees.

(d) One hundred eighty days in advance if the termination is because of a change in the use of the land by the landlord pursuant to NRS 118B.180.

(e) Forty-five days in advance if the termination is for any other reason.

2. The landlord shall specify in the notice the reason for the termination of the agreement. The reason relied upon for the termination must be set forth with specific facts so that the date, place and circumstances concerning the reason for the termination can be determined. The termination must be in accordance with the provisions of NRS 118B.200 and reference alone to a provision of that section does not constitute sufficient specificity pursuant to this subsection.

3. The service of such a notice does not enhance the landlord's right, if any, to enter the tenant's manufactured home. Except in an emergency, the landlord shall not enter the manufactured home of the tenant served with such a notice without the tenant's permission or a court order allowing the entry.

4. If a tenant remains in possession of the manufactured home lot after expiration of the term of the rental agreement, the tenancy is from week to week in the case of a tenant who pays weekly rent, and in all other cases the tenancy is from month to month. The tenant's continued occupancy is on the same terms and conditions as were contained in the rental agreement unless specifically agreed otherwise in writing.

5. The landlord and tenant may agree to a specific date for termination of the agreement. If any provision of this chapter specifies a period of notice which is longer than the period of a particular tenancy, the required length of the period of notice is controlling.

6. Notwithstanding any provision of NRS 40.215 to 40.425, inclusive, **and sections 2 to 7, inclusive, of this act**, if a tenant who is not a natural person has received three notices for nonpayment of rent in accordance with subsection 1, the landlord is not required to give the tenant a further 10-day notice in advance of termination if the termination is because of failure to pay rent, utility charges or reasonable service fees.

Sec. 41. NRS 118B.200 is hereby amended to read as follows:

118B.200 1. Notwithstanding the expiration of a period of a tenancy or service of a notice pursuant to subsection 1 of NRS 118B.190, the rental agreement described in NRS 118B.190 may not be terminated except on one or more of the following grounds:

(a) Failure of the tenant to pay rent, utility charges or reasonable service fees within 10 days after written notice of delinquency served upon the tenant in the manner provided in NRS 40.280;

(b) Failure of the tenant to correct any noncompliance with a law, ordinance or governmental regulation pertaining to manufactured homes or recreational vehicles or a valid rule or regulation established pursuant to NRS 118B.100 or to cure any violation of the rental agreement within a reasonable time after receiving written notification of noncompliance or violation;

(c) Conduct of the tenant in the manufactured home park which constitutes an annoyance to other tenants;

(d) Violation of valid rules of conduct, occupancy or use of park facilities after written notice of the violation is served upon the tenant in the manner provided in NRS 40.280;

(e) A change in the use of the land by the landlord pursuant to NRS 118B.180;

(f) Conduct of the tenant which constitutes a nuisance as defined in NRS 40.140 or which violates a state law or local ordinance, specifically including, without limitation:

- (1) Discharge of a weapon;
- (2) Prostitution;
- (3) Illegal drug manufacture or use;
- (4) Child molestation or abuse;
- (5) Elder molestation or abuse;
- (6) Property damage as a result of vandalism; and

(7) Operating a motor vehicle while under the influence of alcohol or any other controlled substance; or

(g) In a manufactured home park that is owned by a nonprofit organization or housing authority, failure of the tenant to meet qualifications relating to age or income which:

- (1) Are set forth in the lease signed by the tenant; and
- (2) Comply with federal, state and local law.

2. A tenant who is not a natural person and who has received three or more 10-day notices to ~~[quit]~~ **surrender** for failure to pay rent in the preceding 12-month period may have his or her tenancy terminated by the landlord for habitual failure to pay timely rent.

Sec. 42. ~~[NRS 118C.230 is hereby amended to read as follows:~~

~~118C.230 1. Except as otherwise provided in subsection 3, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:~~

~~—(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.~~

~~—(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).~~

~~—(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.~~

~~2. A tenant of commercial premises is presumed to have abandoned the premises if:~~

~~—(a) Goods, equipment or other property, in an amount substantial enough to indicate a probable intent to abandon the commercial premises, is being or has been removed from the commercial premises; and~~

~~—(b) The removal is not within the normal course of business of the tenant.~~

~~3. If a written agreement between a landlord and a person who has an ownership interest in any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the person with respect to the removal and disposal of the abandoned personal property.~~

~~4. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection [7] 8 of NRS 40.253. (Deleted by amendment.)~~

Sec. 43. NRS 203.110 is hereby amended to read as follows:

203.110 *Except as otherwise provided in sections 46 and 47 of this act:*

1. Every person who shall unlawfully use, or encourage or assist another in unlawfully using, any force or violence in entering upon or detaining any lands or other possessions of another; and ~~every~~

2. ~~Every~~ person who, having removed or been removed ~~therefrom~~ **from any lands or possessions of another** pursuant to the order or direction of any court, tribunal or officer, shall afterward unlawfully return to settle or reside upon, or take possession of, such lands or possessions,
↪ shall be guilty of a misdemeanor.

Sec. 44. Chapter 205 of NRS is hereby amended by adding thereto the provisions set forth as sections 45 to 48, inclusive, of this act.

Sec. 45. *As used in sections 45 to 48, inclusive, of this act, “dwelling” means a structure or part thereof that is designed or intended for occupancy as a residence or sleeping place.*

Sec. 46. 1. A person who ~~is, by day or night,~~ **forcibly enters an uninhabited or vacant dwelling, knows or has reason to believe that such entry is without permission of the owner of the dwelling or an authorized representative of the owner (with) and has the intent to take up residence or provide a residency to another therein is guilty of housebreaking.**

2. A person convicted of housebreaking is guilty of :

(a) For a first offense, a gross misdemeanor; and

(b) For a second and any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

3. A person convicted of housebreaking and who has previously been convicted three or more times of housebreaking must not be released on probation or granted a suspension of sentence.

~~Sec. 4.~~ 4. *As used in this section, “forcibly enters” means an entry involving:*

(a) Any act of physical force resulting in damage to the structure; or

(b) The changing or manipulation of a lock to gain access.

Sec. 47. 1. A person who ~~is, by day or night,~~ **takes up residence in an uninhabited or vacant dwelling and knows or has reason to believe that such residency is without permission of the owner of the dwelling or an authorized representative of the owner is guilty of unlawful occupancy.**

2. A person convicted of unlawful occupancy is guilty of a gross misdemeanor. A person convicted of unlawful occupancy and who has been convicted three or more times of unlawful occupancy is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. **A person who is accused of unlawful occupancy pursuant to subsection 1 and has previously taken up residency in a dwelling, without the permission of the owner or an authorized representative of the owner,**

~~under color of valid lease and thereafter takes up residency of another dwelling, without the permission of the owner or an authorized representative of the owner, under color of valid lease,]~~ been convicted two times of housebreaking, unlawful occupancy or any lesser included or related offense, or any combination thereof, arising from the same set of facts is presumed to have obtained [such] residency of the dwelling with the knowledge that:

- (a) ~~The~~ Any asserted lease is invalid; and
- (b) Neither the owner nor an authorized representative of the owner permitted the residency.

Sec. 48. 1. A person is guilty of unlawful reentry if:

- (a) An owner of real property has recovered possession of the property from the person pursuant to section 2 or 3 of this act; and

~~[(d)]~~ (b) Without the authority of the court or permission of the owner, the person reenters the property.

2. A person convicted of unlawful reentry is guilty of a gross misdemeanor.

Sec. 49. ~~[NRS 205.067 is hereby amended to read as follows:~~

~~205.067 1. A person who, by day or night, forcibly enters an inhabited dwelling without permission of the owner, resident or lawful occupant, whether or not a person is present at the time of the entry, is guilty of invasion of the home.~~

~~2. A person convicted of invasion of the home is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000. A person who is convicted of invasion of the home and who has previously been convicted of burglary or invasion of the home must not be released on probation or granted a suspension of sentence.~~

~~3. Whenever an invasion of the home is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car traveled during the time the invasion was committed.~~

~~4. A person convicted of invasion of the home who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.~~

~~5. As used in this section:~~

~~— (a) “Foreibly enters” means the entry of an inhabited dwelling involving [any].~~

~~— (1) Any act of physical force resulting in damage to the structure [.] ; or~~

~~— (2) The changing or manipulation of a lock to access the dwelling.~~

~~— (b) “Inhabited dwelling” means any structure, building, house, room, apartment, tenement, tent, conveyance, vessel, boat, vehicle, house trailer, travel trailer, motor home or railroad car in which the owner or other lawful occupant resides. (Deleted by amendment.)~~

~~Sec. 50. [NRS 244.363 is hereby amended to read as follows:
244.363 Except as otherwise provided in subsection [3] 4 of NRS 40.140 and subsection 6 of NRS 202.450, the boards of county commissioners in their respective counties may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the county.] (Deleted by amendment.)~~

~~Sec. 51. [NRS 266.335 is hereby amended to read as follows:
266.335 The city council may:
1. Except as otherwise provided in subsection [3] 4 of NRS 40.140 and subsection 6 of NRS 202.450, determine by ordinance what shall be deemed nuisances;
2. Provide for the abatement, prevention and removal of the nuisances at the expense of the person creating, causing or committing the nuisances;
3. Provide that the expense of removal is a lien upon the property upon which the nuisance is located. The lien must:
(a) Be perfected by recording with the county recorder a statement by the city clerk of the amount of expenses due and unpaid and describing the property subject to the lien;
(b) Be coequal with the latest lien thereon to secure the payment of general taxes;
(c) Not be subject to extinguishment by the sale of any property because of the nonpayment of general taxes;
(d) Be prior and superior to all liens, claims, encumbrances and titles other than the liens of assessments and general taxes;
4. Provide any other penalty or punishment of persons responsible for the nuisances.] (Deleted by amendment.)~~

~~Sec. 52. [NRS 268.412 is hereby amended to read as follows:
268.412 Except as otherwise provided in subsection [3] 4 of NRS 40.140 and subsection 6 of NRS 202.450, the city council or other governing body of a city may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, excessive noise which is injurious to health or which interferes unreasonably with the comfortable enjoyment of life or property within the boundaries of the city.] (Deleted by amendment.)~~

~~Sec. 53. NRS 315.041 is hereby amended to read as follows:
315.041 1. Except as otherwise required by federal law or regulation, or as a condition to the receipt of federal money, a housing authority or a landlord~~

shall, immediately upon learning of facts indicating that a tenant is required pursuant to NRS 315.031 to vacate public housing, serve upon the tenant a written notice which:

(a) States that the tenancy is terminated at noon of the fifth full day following the day of service, and that the tenant must surrender the premises at or before that time;

(b) Sets forth the facts upon which the tenant is required to vacate the premises pursuant to NRS 315.031;

(c) Advises the tenant of the tenant's right to contest the matter by filing, within 5 days, an affidavit with the justice of the peace denying the occurrence of the conditions set forth in NRS 315.031; and

(d) Contains any other matter required by federal law or regulation regarding the eviction of the tenant from those premises, or as a condition to the receipt of federal money.

➤ If the tenant timely files the affidavit and provides the housing authority or the landlord with a copy of the affidavit, stamped as filed with the justice of the peace, the housing authority or the landlord shall not refuse the tenant, or any person who resides with the tenant, access to the premises.

2. Upon noncompliance with the notice:

(a) The housing authority or the landlord shall apply by affidavit to the justice of the peace of the township where the premises are located. If it appears to the justice of the peace that the conditions set forth in NRS 315.031 have occurred and that the tenant is required by that section to vacate the premises, the justice of the peace shall issue an order directing the sheriff or constable of the county to remove the tenant and any other person on the premises within 24 hours after receipt of the order. The affidavit required by this paragraph must contain:

(1) The date when, and the facts upon which, the tenant became required to vacate the premises.

(2) The date when the written notice was given, a copy of the notice and a statement that the notice was served as provided in NRS 315.051.

(b) Except when the tenant has timely filed the affidavit described in subsection 1 and provides the housing authority or the landlord with a copy of the affidavit, stamped as filed with the justice of the peace, the housing authority or the landlord may, in a peaceable manner, refuse the tenant, and any person who resides with the tenant, access to the premises.

3. Upon the filing by the tenant of the affidavit authorized by subsection 1 and the filing by the housing authority or the landlord of the affidavit required by subsection 2, the justice of the peace shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the justice of the peace determines that the conditions set forth in NRS 315.031 have occurred and that the tenant is required by that section to vacate the premises, the justice of the peace shall issue a summary order for removal of the tenant and any other person on the premises, or an order refusing the tenant, and any

person who resides with the tenant, admittance to the premises. If the justice of the peace determines that the conditions set forth in NRS 315.031 have not occurred and that the tenant is not required by that section to vacate the premises, the justice of the peace shall refuse to grant any relief.

4. The provisions of NRS 40.215 to 40.425, inclusive, **and sections 2 to 7, inclusive, of this act** do not apply to any proceeding brought pursuant to the provisions of NRS 315.011 to 315.071, inclusive.

Sec. 54. NRS 326.070 is hereby amended to read as follows:

326.070 1. All lands in this state shall be deemed and regarded as public lands until the legal title is known to have passed from the government to private persons.

2. Every person who shall have complied with the provisions of NRS 326.010 to 326.070, inclusive, shall be deemed and held to have the right or title of possession of all the lands embraced within the survey, not to exceed 160 acres; and any person who shall thereafter, without the consent of the person so complying, enter into or upon such lands adversely, shall be deemed and held guilty of an unlawful and fraudulent entry thereon, and may be removed therefrom by proceedings had before any justice of the peace of the township in which the lands are situated. Such proceedings may be commenced and prosecuted under the provisions of NRS 40.220 to 40.420, inclusive, **and sections 2 to 7, inclusive, of this act** and all the provisions contained in those sections are made applicable to proceedings under NRS 326.010 to 326.070, inclusive.

Sec. 55. ~~NRS 645H.520 is hereby amended to read as follows:~~

~~645H.520 1. Subject to the provisions of NRS 645H.770, the services an asset management company may provide include, without limitation:~~

~~(a) Securing real property in foreclosure once it has been determined to be abandoned and all notice provisions required by law have been complied with;~~

~~(b) Providing maintenance for real property in foreclosure, including landscape and pool maintenance;~~

~~(c) Cleaning the interior or exterior of real property in foreclosure;~~

~~(d) Providing repair or improvements for real property in foreclosure; and~~

~~(e) Removing trash and debris from real property in foreclosure and the surrounding property.~~

~~2. An asset management company may dispose of personal property abandoned on the premises of a residence in foreclosure or left on the premises after the eviction of a homeowner or a tenant of a homeowner without incurring civil or criminal liability in the following manner:~~

~~(a) The asset management company shall reasonably provide for the safe storage of the property for 30 days after the abandonment or eviction and may charge and collect the reasonable and actual costs of inventory, moving and storage before releasing the property to the homeowner or the tenant of the homeowner or his or her authorized representative rightfully claiming the property within that period. The asset management company is liable to the~~

~~homeowner or the tenant of the homeowner only for the asset management company's negligent or wrongful acts in storing the property.~~

~~(b) After the expiration of the 30 day period, the asset management company may dispose of the property and recover his or her reasonable costs from the property or the value thereof if the asset management company has made reasonable efforts to locate the homeowner or the tenant of the homeowner, has notified the homeowner or the tenant of the homeowner in writing of his or her intention to dispose of the property and 14 days have elapsed since the notice was given to the homeowner or the tenant of the homeowner. The notice must be mailed to the homeowner or the tenant of the homeowner at the present address of the homeowner or the tenant of the homeowner and, if that address is unknown, then at the last known address of the homeowner or the tenant of the homeowner.~~

~~(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.~~

~~3. Any dispute relating to the amount of the costs claimed by the asset management company pursuant to paragraph (a) of subsection 2 may be resolved using the procedure provided in subsection [7] 8 of NRS 40.253.]~~
(Deleted by amendment.)

Sec. 56. NRS 40.170 is hereby repealed.

TEXT OF REPEALED SECTION

40.170 Damages in actions for forcible or unlawful entry may be trebled.

1. If a person recovers damages for a forcible or unlawful entry in or upon, or detention of, any building or any uncultivated or cultivated real property, judgment may be entered for three times the amount at which the actual damages are assessed.

2. As used in this section, "actual damages" means damages to real property and personal property.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 394.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 480.

SUMMARY—~~[Revises provisions relating to education.] Creates an advisory committee and a technical committee to develop a plan to reorganize the Clark County School District.~~ (BDR [34-900]) S-900)

~~AN ACT relating to education; ~~[prescribing the process by which the governing body of an incorporated city may create a local school precinct within a county school district with the approval of the State Board of Education; authorizing two or more boards of trustees of contiguous school~~~~

districts to consolidate their respective districts by interlocal agreement; and
creating an advisory committee and technical advisory committee for the
purpose of developing a plan to reorganize the Clark County School
District into certain local school precincts; providing for the membership,
compensation and duties of the committees; providing for the
implementation of the plan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law provides for the organization of school districts in this State. (Chapter 386 of NRS) Sections 2-17 of this bill generally prescribe the process by which the governing body of an incorporated city may create a local school precinct within a school district with the approval of the State Board of Education. Section 7 authorizes the governing body of an incorporated city to create a local school precinct in the manner prescribed by sections 2-17. Section 8 requires the boundaries of a local school precinct to be coterminous with the boundaries of the incorporated city forming the local school precinct. Section 8 authorizes a governing body to appoint a committee to develop a proposed precinct plan for the creation, operation, management and administration of a local school precinct, and prescribes certain terms and conditions which may be incorporated into a precinct plan for the purposes of facilitating the creation of a local school precinct. Section 9 requires the governing body to conduct a hearing to approve, disapprove or amend and approve a proposed precinct plan. Section 9 requires the governing body, upon approving a proposed precinct plan, to file notice of its intent to create a local school precinct with the State Board of Education and certain other entities. Section 10 requires the State Board, upon receiving a proposed precinct plan, to conduct a hearing to approve, disapprove or amend and approve the proposed precinct plan. Section 11 provides for the interim appointment by the governing body of a precinct council and the election of permanent members to the precinct council at the next general city election of the incorporated city. Section 12 prescribes the requirements for the meetings of a precinct council. Section 13 requires the governing body to prescribe by city ordinance the monthly salary of the members of a precinct council. Section 14 authorizes a precinct council or board of trustees to request a hearing with the Superintendent of Public Instruction for the purpose of resolving any dispute with respect to a precinct plan. Section 16 establishes the process by which the governing body may dissolve a local school precinct with the approval of the State Board.~~

~~Existing law generally authorizes local governments to consolidate governmental services by interlocal agreement. (NRS 277.080-277.180) Sections 18 and 19 of this bill authorize two or more boards of trustees of contiguous school districts to consolidate their respective districts by interlocal agreement.]~~

This bill provides for the creation of an advisory committee and a technical advisory committee for the purpose of developing a plan to

reorganize the Clark County School District into not less than five local school precincts. Section 25 of this bill creates the advisory committee for the purpose of developing the plan, and section 26 of this bill creates the technical advisory committee for the purpose of assisting the advisory committee. Sections 25 and 26 provide for the membership, compensation and duties of the respective committees. Section 27 of this bill requires the advisory committee, in consultation with the technical advisory committee, to contract with a consultant for the purposes of conducting a study with respect to developing the plan and to establish certain benchmarks to ensure that the plan may be implemented before the 2017-2018 school year. Section 27 authorizes the advisory committee to request from the Interim Finance Committee an allocation of money to conduct the study. Section 27 prescribes the subject matter which must be contemplated by the advisory committee in developing the plan. Section 28 of this bill requires the Board of County Commissioners of Clark County to conduct certain public meetings within the County for the purpose of receiving public comment and input with respect to a proposed plan. Section 28 requires the advisory committee to file the plan with the Board of Trustees of the Clark County School District and provides for the immediate implementation of the plan upon filing.

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

Section 1. ~~{Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.}~~ (Deleted by amendment.)

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 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.}~~ (Deleted by amendment.)

Sec. 3. ~~{“Governing body” means the city council or other governing body of an incorporated city.}~~ (Deleted by amendment.)

Sec. 4. ~~{“Local school precinct” means a precinct, the boundaries of which are coterminous with the boundaries of an incorporated city, created by a precinct plan approved pursuant to section 10 of this act.}~~ (Deleted by amendment.)

Sec. 5. ~~{“Precinct council” means the body appointed or elected pursuant to section 11 of this act for the purpose of managing a local school precinct.}~~ (Deleted by amendment.)

Sec. 6. ~~{“Precinct plan” means a plan approved pursuant to section 10 of this act for the purpose of creating a local school precinct and vesting a precinct council with limited rights, powers and duties to manage the schools located within the local school precinct.}~~ (Deleted by amendment.)

Sec. 7. ~~{1. The governing body of an incorporated city may, in the manner prescribed by sections 2 to 17, inclusive, of this act, file a notice of intent with the State Board to create a local school precinct.~~

~~— 2. The boundaries of a local school precinct created pursuant to sections 2 to 17, inclusive, of this act must be coterminous with the boundaries of the incorporated city forming the local school precinct.~~

~~— 3. Each local school precinct shall be designated by the name and style of “..... Local School Precinct,” using the name of the incorporated city whose boundaries are coterminous with the boundaries of the local school precinct.} (Deleted by amendment.)~~

Sec. 8. ~~{1. The governing body of an incorporated city may appoint a committee of five qualified electors to develop a proposed precinct plan for the purpose of creating a local school precinct.~~

~~— 2. A proposed precinct plan developed by a committee for the purpose of creating a local school precinct may set forth any terms and conditions necessary to facilitate the creation, operation, management and administration of a local school precinct, including, without limitation, terms and conditions relating to:~~

~~— (a) The allocation, dedication and transfer of any revenue to a local school precinct that may be dedicated to capital projects and improvements for schools and school facilities, school programs, students or other costs directly incidental to the operation, management and administration of the local school precinct.~~

~~— (b) The authority to issue bonds or otherwise raise revenue.~~

~~— (c) The application for and receipt of any grant, gift or bequest.~~

~~— (d) The creation and administration of any accounts to manage any money received by a local school precinct.~~

~~— (e) The transfer of any interest in real or personal property, including, without limitation, lease agreements.~~

~~— (f) Precinct planning and management, including, without limitation, financial planning for school programs, student funding, capital projects and improvements.~~

~~— (g) Administrative support, including, without limitation, accounting, data processing, payroll and purchasing agreements.~~

~~— (h) The liability of a local school precinct with respect to any duties and obligations of the board of trustees which are assumed by the precinct council.~~

~~— (i) The civil and administrative liability of the local school precinct or its employees.~~

~~— (j) Interlocal agreements between a local school precinct and a state, county or regional planning authority.~~

~~— (k) Staffing, including, without limitation, the transfer, reassignment or hiring of personnel.~~

~~— (l) Employment contracts and collective bargaining.~~

~~— (m) Employee and student safety.~~

~~—(n) The maintenance of schools, school facilities and school grounds.~~
~~—(o) Transportation.~~
~~—(p) Athletics.~~
~~—(q) Curriculum.~~
~~—(r) The rights, duties and powers of a precinct council as such rights, duties and powers relate to the terms of a proposed precinct plan.~~
~~—(s) Any other terms or conditions that may be required by regulations adopted by the State Board.} (Deleted by amendment.)~~

Sec. 9. ~~{1. A committee shall, upon completion of a proposed precinct plan, submit the plan to the governing body for approval. After notice and a hearing, the governing body shall approve, disapprove or amend and approve the proposed precinct plan.~~

~~—2. Upon approving a proposed precinct plan, the governing body shall file notice of its intent to create a local school precinct with:~~

~~—(a) The board of trustees of the school district in which the local school precinct is proposed to be created;~~

~~—(b) The board of county commissioners of the county in which the local school precinct is proposed to be created;~~

~~—(c) The State Board;~~

~~—(d) The Committee on Local Government Finance; and~~

~~—(e) Any other state, county or regional planning commission or agency that exercises planning authority over any part of the area proposed for inclusion in the local school precinct.~~

~~↪ A notice filed pursuant to this subsection must include a copy of the proposed precinct plan approved by the governing body.~~

~~—3. Any entity that receives a notice pursuant to subsection 2 may:~~

~~—(a) Review the proposed precinct plan included with the notice; and~~

~~—(b) Submit to the State Board any recommendations in writing with respect to the proposed precinct plan.} (Deleted by amendment.)~~

Sec. 10. ~~{1. The State Board, upon receiving a notice of intent to create a local school precinct pursuant to section 9 of this act, shall:~~

~~—(a) Not later than 120 days after receiving the notice, conduct a hearing to approve, disapprove or amend and approve the proposed precinct plan to create a local school precinct.~~

~~—(b) Not less than 30 days before conducting the hearing, cause written notice of the date and location of the hearing to be provided to:~~

~~—(1) The governing body of the incorporated city that filed the notice with the State Board;~~

~~—(2) The board of trustees of the school district in which the local school precinct is proposed to be created;~~

~~—(3) The board of county commissioners of the county in which the local school precinct is proposed to be created;~~

~~—(4) The Committee on Local Government Finance; and~~

~~—(5) Any entity that submitted recommendations pursuant to paragraph (b) of subsection 3 of section 9 of this act.~~

~~2. A hearing conducted pursuant to this section must be held at a location within the boundaries of the incorporated city that filed the notice with the State Board.~~

~~3. The State Board shall render a decision in writing approving, disapproving or amending and approving a proposed precinct plan not later than 10 days after the hearing.] (Deleted by amendment.)~~

Sec. 11. ~~{1. Upon approval of a precinct plan pursuant to section 10 of this act:~~

~~(a) The governing body of the incorporated city shall, as soon as practicable, appoint five qualified persons to serve on an interim precinct council until the permanent members of the precinct council are elected pursuant to paragraph (b) and are qualified to enter upon the discharge of their duties.~~

~~(b) The registered electors residing within the local school precinct shall, at the next general city election held pursuant to chapter 202C of NRS or the city charter, as applicable, and every 4 years thereafter, elect five members who are residents within the local school precinct to serve on the precinct council for the purposes of exercising the rights and powers and carrying out the duties of the precinct council pursuant to the terms of the precinct plan. The term of a member of a precinct council elected pursuant to this section is 4 years.~~

~~2. Any vacancy occurring on a precinct council must be filled by appointment by the governing body of the incorporated city. A member appointed pursuant to this subsection shall serve until his or her successor is elected at the next general city election and is qualified to enter upon the discharge of his or her duties. A successor elected pursuant to this subsection shall serve for the balance of the unexpired term of the vacated position.~~

~~3. A precinct council duly appointed or elected pursuant to this section is vested with all of the rights, duties and powers under the authority granted to the precinct council pursuant to a precinct plan approved pursuant to section 10 of this act.~~

~~4. To the extent that a precinct plan does not vest a precinct council with authority to manage a local school precinct, the board of trustees of the school district in which the local school precinct is located shall perform all the duties and functions and exercise any power vested with the board of trustees pursuant to this title with respect to each school located within the local school precinct.] (Deleted by amendment.)~~

Sec. 12. ~~{1. A precinct council shall, at the first meeting of each calendar year, appoint a chair, a vice chair and a secretary.~~

~~2. A precinct council shall meet at least once each calendar quarter at such time and place as the council shall determine.~~

~~3. The chair shall call a special meeting of the precinct council whenever there is sufficient business to come before the precinct council, or upon the written request of not less than three members of the precinct council.~~

~~4. A majority of the members of a precinct council constitutes a quorum for the transaction of business, and a quorum may exercise any right, duty or power vested with the precinct council pursuant to a precinct plan.~~

~~5. A meeting conducted pursuant to this section must be conducted in accordance with the provisions of chapter 241 of NRS.} (Deleted by amendment.)~~

Sec. 13. ~~{1. The governing body of an incorporated city for which a local school precinct has been created shall prescribe by ordinance a monthly salary to which each member of the precinct council is entitled.~~

~~2. A member of the precinct council may:~~

~~(a) Donate all or a part of the monthly salary that he or she receives to a school within the local school precinct; or~~

~~(b) In lieu of making a donation after the member receives the salary, request that all or a part of his or her monthly salary be paid directly to a school within the local school precinct.} (Deleted by amendment.)~~

Sec. 14. ~~{1. A precinct council or a board of trustees may request a hearing with the Superintendent of Public Instruction to resolve any dispute with respect to a precinct plan.~~

~~2. Upon receiving a request pursuant to subsection 1, the Superintendent shall:~~

~~(a) Not later than 30 days after receiving the request, conduct a hearing.~~

~~(b) Not less than 10 days before conducting the hearing, cause written notice to be provided to each party indicating the date and location of the hearing.~~

~~3. The Superintendent shall render a decision in writing not later than 10 days after the hearing. A written decision issued by the Superintendent is final for the purposes of judicial review.} (Deleted by amendment.)~~

Sec. 15. ~~{Except as otherwise specifically provided for in sections 2 to 17, inclusive, of this act and the terms of any approved precinct plan, a local school precinct, precinct council and each school located within the precinct are subject to any other applicable provisions of law or regulation governing education as prescribed by this title.} (Deleted by amendment.)~~

Sec. 16. ~~{1. The governing body of an incorporated city may, at any time after the creation of a local school precinct, file a notice with the State Board of the governing body's intent to dissolve the local school precinct.~~

~~2. Upon receiving a notice pursuant to subsection 1, the State Board shall conduct a hearing in the manner prescribed by section 10 of this act.~~

~~3. The State Board shall, upon issuing an order dissolving a local school precinct, provide for the orderly transfer of all rights, powers, duties and obligations of the precinct council to the board of trustees of the school district in which the local school precinct was created.} (Deleted by amendment.)~~

Sec. 17. ~~{The State Board may adopt any regulations necessary to carry out the provisions of sections 2 to 17, inclusive, of this act.} (Deleted by amendment.)~~

Sec. 18. ~~[NRS 277.103 is hereby amended to read as follows:~~

~~277.103 1. The governing bodies of a county, the largest city, and each other incorporated city which chooses to participate may consolidate the services provided by those governments, by interlocal agreement pursuant to the provisions of NRS 277.105.~~

~~2. Two or more boards of trustees of contiguous school districts may consolidate the respective school districts by interlocal agreement pursuant to subsection 3 of NRS 277.105. The boundaries of a consolidated school district created by interlocal agreement must be coterminous with the boundaries of the contiguous school districts being consolidated.~~

~~3. The provisions of this section and NRS 277.105 supplement, and in case of conflict prevail over, the provisions of NRS 277.110 to 277.180, inclusive.]~~

(Deleted by amendment.)

Sec. 19. ~~[NRS 277.105 is hereby amended to read as follows:~~

~~277.105 1. In a county in which governmental services are consolidated, the governing bodies may establish a permanent administrative entity to perform specific functions throughout the participating cities and in the unincorporated area of the county, including, but not limited to:~~

~~(a) Prevention and suppression of fire.~~

~~(b) Sanitation and sewerage.~~

~~(c) Planning, regulation of use of land and buildings, inspection of buildings for safety, and the issuance of building permits.~~

~~(d) Regulation of business and gaming and issuance of business and gaming licenses.~~

~~(e) Provision of parks and recreation, including the maintenance of existing facilities.~~

~~(f) Provision of informational systems and data processing for the county and participating cities.~~

~~(g) General services and the maintenance of buildings and vehicles for the county and participating cities.~~

~~2. The county and each participating city may negotiate concerning the manner of contributing to the budget of the administrative entity in proportion to the sum of revenues derived by each from taxes, licenses for business and gaming, and fees for services performed, in each city and in the unincorporated area of the county, respectively.~~

~~3. An interlocal agreement entered into between two or more boards of trustees for the purposes of consolidating contiguous school districts may set forth any terms and conditions necessary to facilitate the creation, operation, management and administration of the consolidated school district.]~~

(Deleted by amendment.)

Sec. 20. ~~[This act becomes effective:~~

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

~~2. On January 1, 2016, for all other purposes.] (Deleted by amendment.)~~

Sec. 21. As used in sections 21 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 22, 23 and 24 of this act have the meanings ascribed to them in those sections.

Sec. 22. "Advisory committee" means the advisory committee created by section 25 of this act.

Sec. 23. "Plan" means the plan developed by the advisory committee in accordance with sections 21 to 28, inclusive, of this act.

Sec. 24. "Technical advisory committee" means the technical advisory committee created by section 26 of this act.

Sec. 25. 1. There is hereby created an advisory committee to develop a plan and recommendations to reorganize the Clark County School District into not less than five local school precincts before the 2017-2018 school year.

2. The advisory committee consists of nine members appointed as follows:

(a) Four members of the Senate who are elected from districts which include any area located within Clark County, two of whom are appointed by the Majority Leader of the Senate and two of whom are appointed by the Minority Leader of the Senate.

(b) Four members of the Assembly who are elected from districts which include any area located within Clark County, two of whom are appointed by the Speaker of the Assembly and two of whom are appointed by the Minority Leader of the Assembly.

(c) One member appointed by the Legislative Commission who is a member of the general public, is a resident of Clark County and represents the ethnic diversity of Clark County.

3. At the first meeting of the advisory committee, the advisory committee shall elect a Chair and a Vice Chair from among its members.

4. A majority of the members of the advisory committee constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the advisory committee.

5. A vacancy in the membership of the advisory committee must be filled in the same manner as the original appointment.

6. Members of the advisory committee serve without compensation, except that a member is entitled, while engaged in the business of the advisory committee, to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 26. 1. To assist the advisory committee with technical expertise, input, advice and assistance, a technical advisory committee is hereby created consisting of the following members:

(a) One member who is appointed by the governing body of each incorporated city located within Clark County.

(b) Two members who are appointed by the State Board of Education.

(c) One member who is appointed by the Board of Trustees of the Clark County School District.

2. The members of the technical advisory committee serve without compensation, except that a member is entitled, while engaged in the business of the technical advisory committee, to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 27. 1. The advisory committee shall, in consultation with the technical advisory committee:

(a) Contract with a qualified independent consultant to perform a study and assist the advisory committee with developing the plan.

(b) As soon as practicable, establish benchmarks that must be met within the Clark County School District to ensure that the plan may be implemented before the 2017-2018 school year.

2. The advisory committee may request approval from the Interim Finance Committee for an allocation of money to conduct the study required pursuant to paragraph (a) of subsection 1.

3. The plan and the study conducted pursuant to paragraph (a) of subsection 1 must be completed on or before October 1, 2016.

4. In developing the plan to reorganize the Clark County School District, the advisory committee must:

(a) Ensure equity in the reorganization of the Clark County School District with respect to the Nevada Plan.

(b) Take into consideration:

(1) The contiguous boundaries of each proposed local school precinct.

(2) The allocation, dedication and transfer of any revenue to a local school precinct that may be dedicated to capital projects and improvements for schools and school facilities, school programs, pupils or other costs directly incidental to the operation, management and administration of the local school precinct.

(3) The authority to issue bonds or otherwise raise revenue.

(4) The application for and receipt of any grant, gift or bequest.

(5) The creation and administration of accounts to manage any money received by a local school precinct.

(6) The transfer of any interest in real or personal property, including, without limitation, lease agreements.

(7) Precinct planning and management, including, without limitation, financial planning for school programs, pupil funding and capital projects and improvements.

(8) Administrative support, including, without limitation, accounting, data processing, payroll and purchasing agreements.

(9) The liability of a local school precinct with respect to any duties and obligations of the Board of Trustees of the Clark County School district which will be assumed by the governing body of a precinct.

(10) The civil and administrative liability of a local school precinct and its employees.

(11) Interlocal agreements between a local school precinct and a state, county or regional planning authority.

(12) Staffing, including, without limitation, the transfer, reassignment or hiring of personnel.

(13) Employment contracts and collective bargaining.

(14) Employee and pupil safety.

(15) The maintenance of schools, school facilities and school grounds.

(16) Transportation.

(17) Interscholastic athletics and activities.

(18) Curriculum.

(19) The provision of services and education to pupils:

(I) Who have limited proficiency in the English language.

(II) Who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq.

(III) With disabilities.

(20) The composition of the governing body for each local school precinct and the compensation, if any, of the members of a governing body.

(c) Ensure that the Clark County School District is funded in accordance with the Nevada Plan and that such funding is distributed on a per pupil basis among the local school precincts created by the plan.

(d) Authorize one or more local school precincts to request that the Clark County School District issue bonds on behalf of the local school precincts.

(e) Require the Clark County School District to issue bonds upon receiving a request for such issuance pursuant to paragraph (d), except for good cause.

(f) Require a local school precinct on behalf of which bonds are issued pursuant to paragraph (e) to use the proceeds from the issuance of the bonds on a per pupil basis.

5. As used in this section, "Nevada Plan" means the formula created for providing state financial aid to public education prescribed in NRS 387.121.

Sec. 28. 1. Upon completion of a proposed plan and the study prepared pursuant to paragraph (a) of subsection 1 of section 27 of this act, the Board of County Commissioners of Clark County shall conduct not less than four public meetings. Not less than one of the public meetings conducted pursuant to this section must be held in an unincorporated area of Clark County.

2. At each public meeting conducted pursuant to this section, the advisory committee and the consultant retained pursuant to paragraph (a) of subsection 1 of section 27 of this act shall present the preliminary

findings and the proposed plan for the purpose of receiving public comment and input.

3. Upon completion of the public meetings conducted pursuant to this section, the advisory committee shall:

(a) Revise the proposed plan, as necessary;

(b) File the proposed plan with the Board of Trustees of the Clark County School District; and

(c) Submit a copy of the plan to:

(1) The Superintendent of Public Instruction; and

(2) The Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.

4. Except as otherwise provided in subsection 5, the plan is effective immediately upon the filing of the proposed plan pursuant to subsection 3 and must be implemented for the 2017-2018 school year.

5. If the advisory committee files a plan pursuant to subsection 3 and makes a determination that there is sufficient time to implement the plan for the 2016-2017 school year, the plan is immediately effective upon the filing of the proposed plan and must be implemented for the 2016-2017 school year.

Sec. 29. 1. The members of the advisory committee and the technical advisory committee must be appointed on or before July 10, 2015.

2. The Chair of the Legislative Commission shall call the first meeting of the advisory committee which must take place on or before August 7, 2015.

Sec. 30. This act becomes effective upon passage and approval and expires by limitation on June 30, 2017.

Assemblywoman Woodbury moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 404.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 551.

SUMMARY—Revises provisions concerning ~~the issuance and renewal of permits to carry concealed~~ firearms. (BDR 15-840)

AN ACT relating to ~~concealed~~ firearms; ~~requiring a sheriff to refund the application fee for the issuance or renewal of a permit to carry a concealed firearm in certain circumstances;~~ establishing a procedure by which a person applying to transfer or make a firearm may request and obtain the required certification from a chief law enforcement officer; temporarily extending the validity of a permit to carry a concealed firearm beyond the expiration date in certain circumstances; authorizing a person who possesses a permit to carry a concealed firearm issued by another state to continue

to carry a concealed firearm in this State temporarily after becoming a resident of this State in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires an applicant for the issuance or renewal of a permit to carry a concealed firearm to pay a nonrefundable fee of \$60 or \$25, respectively. (NRS 202.3657, 202.3677) Existing law also requires the sheriff to whom an application for the issuance or renewal of a permit is submitted to grant or deny the application within 120 days. (NRS 202.366) Sections 1 and 3 of this bill provide that if the sheriff does not grant or deny an application within 120 days, the sheriff must refund the respective application fee to the applicant or permittee.]~~

Section 1.5 of this bill establishes a procedure by which a person who is applying to transfer or make a firearm may request and obtain the required certification from a chief law enforcement officer. Section 1.5 sets forth the criteria for an applicant to be provided or denied certification and requires a chief law enforcement officer to provide an applicant with written notice and an explanation if the chief law enforcement officer denies certification. Section 1.5 also authorizes a chief law enforcement officer to conduct a background check as part of determining whether to provide or deny certification to an applicant. Additionally, section 1.5 provides that a chief law enforcement officer, and any employee of a chief law enforcement officer, who acts in good faith with regard to providing or denying certification is immune from liability. Section 1.5 further establishes an appeals process by which an applicant who is denied certification may appeal the decision of a chief law enforcement officer to the district court.

Existing law ~~[further]~~ provides that unless a permit to carry a concealed firearm is suspended or revoked by the sheriff who issued the permit, the permit expires 5 years after the date on which it was issued. (NRS 202.366) **Section 2** of this bill provides that if a permittee submits an application for the renewal of a permit before the expiration date, the permit remains valid until the sheriff grants or denies the application for renewal. Evidence that the permittee has paid the application fee for renewal of the permit is sufficient proof that the permittee has submitted an application for renewal.

Existing law also authorizes a person who possesses a permit to carry a concealed firearm that was issued by certain other states to carry a concealed firearm in this State unless the person: (1) becomes a resident of this State; and (2) has not been issued a permit from the sheriff of the county in which he or she resides within 60 days after becoming a resident. (NRS 202.3688) Section 4 of this bill authorizes such a person who becomes a resident of this State and who has not been issued a permit within 60 days after becoming a resident to continue to carry a concealed firearm in this State if, within 60 days after becoming a resident, the person submitted an application to the sheriff for a permit to carry a

concealed firearm. The person may continue to carry a concealed firearm pursuant to the permit issued by the other state until the sheriff grants or denies the application. Evidence that the person has paid the application fee for a permit is sufficient proof that the person has submitted an application for a permit.

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

Section 1. ~~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 handguns owned by the person. The person must not be required to list and identify on the application each handgun owned by the person. A permit is valid for any 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 to any person who is qualified to possess 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 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 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) 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~~

~~(g) A [nonrefundable] fee set by the sheriff not to exceed \$60 [.] , which, except as otherwise provided in subsection 8, is nonrefundable.~~

~~8. If the sheriff does not grant or deny an application for a permit within 120 days as required pursuant to subsection 3 of NRS 202.366, the sheriff shall refund to the applicant the fee set forth in paragraph (g) of subsection 7.~~ (Deleted by amendment.)

Sec. 1.5. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If federal law requires a chief law enforcement officer to provide certification for an application to transfer or make a firearm, a chief law enforcement officer shall, within 15 days of receiving a request for certification from an applicant:

(a) Provide certification to the applicant if the applicant is:

(1) Not prohibited by law from receiving or possessing a firearm; and

(2) Not the subject of a proceeding that could result in the applicant being prohibited by law from receiving or possessing a firearm; or

(b) Deny certification if:

(1) The applicant does not meet the requirements set forth in paragraph (a); or

(2) The chief law enforcement officer determines that he or she cannot truthfully make the certification.

2. If a chief law enforcement officer denies certification pursuant to subsection 1, he or she shall provide to the applicant a written notification of the denial and the reason therefor.

3. A chief law enforcement officer shall not refuse to provide certification based on a generalized objection to:

(a) Any private person or entity that makes, possesses or receives firearms; or

(b) Any certain type of firearm which the possession thereof is not prohibited by law.

4. As part of making a determination as to whether to provide or deny certification pursuant to subsection 1, a chief law enforcement officer may conduct a criminal background check. A chief law enforcement officer shall not require an applicant to provide any information other than that which is necessary to identify the applicant for purposes of the background check or to determine the disposition of an arrest or proceeding that is relevant to the eligibility of the applicant to lawfully possess or receive a firearm. A chief law enforcement officer shall not require, as a condition of providing certification, obtaining access to or consent for any inspection of any private premises.

5. A chief law enforcement officer, and any employee of a chief law enforcement officer, who acts in good faith in carrying out the provisions of this section is immune from any liability arising from any act or omission in connection with providing or denying certification.

6. An applicant whose request for certification is denied pursuant to this section may appeal the decision of the chief law enforcement officer by petitioning the district court in the county in which the applicant resides or maintains his or her address of record. When such a decision is appealed to the district court, the hearing must be de novo. The court shall order the chief law enforcement officer to provide certification, and shall award reasonable attorney's fees and costs to the applicant, if the court determines that:

(a) The applicant meets the requirements set forth in paragraph (a) of subsection 1;

(b) There is no substantial evidence which supports the chief law enforcement officer's determination that he or she could not truthfully make the certification; or

(c) The chief law enforcement officer refused to provide certification in violation of the provisions of subsection 3.

7. As used in this section:

(a) "Certification" means the participation and assent of a chief law enforcement officer that is necessary pursuant to federal law for the approval of an application to transfer or make a firearm.

(b) "Chief law enforcement officer" means an official or his or her designee whom the Bureau of Alcohol, Tobacco, Firearms and Explosives of the United States Department of Justice, or its successor agency, identifies as being eligible to provide the required certification for making or transferring a firearm.

(c) "Firearm" has the meaning ascribed to it in 26 U.S.C. § 5845(a).

Sec. 2. 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	

4. ~~{Unless suspended or revoked by the sheriff who issued the permit, a}~~
A permit expires 5 years after the date on which it is issued ~~{ }~~ **unless:**

(a) The permit is suspended or revoked by the sheriff who issued the permit before the expiration date; or

(b) A permittee submits to the sheriff an application for the renewal of the permit pursuant to NRS 202.3677 before the expiration date, in which case the permit remains valid until the sheriff grants or denies the application for renewal. Evidence that the permittee has paid the fee set forth in paragraph

(d) of subsection 2 of NRS 202.3677 is sufficient proof that the permittee has submitted an application for the renewal of the permit.

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. 3. ~~[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 the 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 [.] , which, except as otherwise provided in subsection 3, is nonrefundable.~~

~~↪ 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. If the sheriff does not grant or deny an application for the renewal of a permit within 120 days as required pursuant to subsection 3 of NRS 202.366, the sheriff shall refund to the permittee the fee set forth in paragraph (d) of subsection 2.~~

~~4. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with handguns by successfully completing a course prescribed by the sheriff renewing the permit. (Deleted by amendment.)~~

Sec. 4. NRS 202.3688 is hereby amended to read as follows:

202.3688 1. Except as otherwise provided in subsection 2, a person who possesses a permit to carry a concealed firearm that was issued by a state included in the list prepared pursuant to NRS 202.3689 may carry a concealed firearm in this State in accordance with the requirements set forth in NRS 202.3653 to 202.369, inclusive.

2. A person who possesses a permit to carry a concealed firearm that was issued by a state included in the list prepared pursuant to NRS 202.3689 may not carry a concealed firearm in this State if the person:

(a) Becomes a resident of this State; and

(b) ~~Has~~ Except as otherwise provided in subsection 3, has not been issued a permit from the sheriff of the county in which he or she resides within 60 days after becoming a resident of this State.

3. Notwithstanding the provisions of paragraph (b) of subsection 2, a person may carry a concealed firearm in this State pursuant to a valid permit issued by a state included in the list prepared pursuant to NRS 202.3689 if the person submitted an application for a permit pursuant to NRS 202.3657 within 60 days after becoming a resident of this State. The person may carry a concealed firearm in this State pursuant to the permit issued by the other state until the sheriff grants or denies the application. Evidence that the person has paid the fee set forth in paragraph (g) of subsection 7 of NRS 202.3657 is sufficient proof that the person has submitted an application for a permit.

4. A person who carries a concealed firearm pursuant to this section is subject to the same legal restrictions and requirements imposed upon a person who has been issued a permit by a sheriff in this State.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 409.

Bill read second time.

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

Amendment No. 375.

AN ACT relating to cosmetology; requiring a makeup artist who engages in the practice of makeup artistry in a licensed cosmetological establishment in this State to register with the State Board of Cosmetology; exempting certain other makeup artists from the licensing and regulation provisions governing cosmetology; deleting the requirement for certain applicants for a license to complete a nationally recognized written examination; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from engaging in the practice of cosmetology or any branch of cosmetology unless the person is licensed by the State Board of Cosmetology. (NRS 644.190) ~~(Sections 2-6 and)~~ Existing law requires the Board to determine the qualifications of applicants for various licenses and to adopt regulations governing the sanitary conditions in cosmetological establishments. (NRS 644.090, 644.120)

Section 3.3 of this bill requires a makeup artist who engages in the practice of makeup artistry in a licensed cosmetological establishment to register with the Board and sets forth the requirements that must be met before the Board is authorized to issue a certificate of registration to such a makeup artist. Section 3.7 of this bill requires the Board to prepare and administer a written examination on sanitation to makeup artists who are

required to register with the Board. Section 7.3 of this bill authorizes the Board to take certain disciplinary action against a registered makeup artist. Section 8 of this bill ~~exempt~~ exempts those makeup artists who are not required to register with the Board from the licensing and regulation provisions governing cosmetology.

Section 7 of this bill eliminates passing a nationally recognized written examination as a requirement for certain applicants who are licensed in a branch of cosmetology in another state or jurisdiction to obtain a license to practice that branch of cosmetology in this State. ~~Existing law authorizes the Board to issue a limited license to practice cosmetology in a resort hotel and in other types of locations designated by the Board. (NRS 644.315) Section 9 of this bill repeals that provision authorizing the limited license.~~

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

Section 1. Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~and 3~~ **to 3.7, inclusive,** of this act.

Sec. 2. “Makeup artist” means a natural person who:

- 1. Engages in the practice of makeup artistry; or**
 - 2. Instructs other persons in the practice of makeup artistry,**
- ↪ regardless of whether the person is licensed by the Board in any branch of cosmetology.**

Sec. 3. 1. “Makeup artistry” means the practice of applying makeup and prosthetics for:

- (a) Theatrical, television, film and other similar productions;**
- (b) All aspects of the modeling and fashion industry, including, without limitation photography for magazines; and**
- (c) Weddings.**

2. The term includes the practice of applying makeup and prosthetics at licensed cosmetological establishments and retail establishments.

Sec. 3.3. 1. Each makeup artist who engages in the practice of makeup artistry in a licensed cosmetological establishment shall, on or before January 1 of each year, register with the Board on a form prescribed by the Board. The registration must:

(a) Include:

- (1) The name, address, electronic mail address and telephone number of the makeup artist; and**
- (2) The name and license number of each cosmetological establishment in which the makeup artist will be practicing makeup artistry.**

(b) Be accompanied by:

(1) A notarized statement indicating that the makeup artist is:

- (I) Not less than 18 years of age;**
- (II) Of good moral character; and**
- (III) A citizen of the United States or is lawfully entitled to remain and work in the United States;**

(2) Proof that the makeup artist has received a score of not less than 75 percent on the written examination administered by the Board pursuant to section 3.7 of this act; and

(3) Two current photographs of the makeup artist which are 2 by 2 inches.

2. The Board shall not charge a fee for registering a makeup artist pursuant to this section.

3. A makeup artist shall not practice makeup artistry in a licensed cosmetological establishment without first obtaining a certificate of registration.

Sec. 3.7. 1. The Board shall prepare and administer a written examination on sanitation for makeup artists who are required to register with the Board pursuant to section 3.3 of this act.

2. The Board shall not charge a makeup artist a fee for administering or scoring the examination described in subsection 1.

Sec. 4. NRS 644.020 is hereby amended to read as follows:

644.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 644.0205 to 644.0295, inclusive, **and sections 2 and 3 of this act** have the meanings ascribed to them in those sections.

Sec. 5. NRS 644.024 is hereby amended to read as follows:

644.024 “Cosmetology” includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, hair braider, demonstrator of cosmetics and nail technologist. **The term does not include the occupation of a makeup artist.**

Sec. 5.3. NRS 644.090 is hereby amended to read as follows:

644.090 The Board shall:

1. Hold examinations to determine the qualifications of all applicants for a license, except as otherwise provided in this chapter, whose applications have been submitted to it in proper form.

2. Issue licenses to such applicants as may be entitled thereto.

3. **Issue certificates of registration to such applicants as may be entitled thereto.**

4. License establishments for hair braiding, cosmetological establishments and schools of cosmetology.

~~4.5.~~ 5. Report to the proper prosecuting officer or law enforcement agency each violation of this chapter coming within its knowledge.

~~5.1.~~ 6. Inspect schools of cosmetology, establishments for hair braiding and cosmetological establishments to ensure compliance with the statutory requirements and adopted regulations of the Board. This authority extends to any member of the Board or its authorized employees.

Sec. 5.7. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license **or certificate of registration** of every nail technologist, electrologist, aesthetician, hair

designer, hair braider, demonstrator of cosmetics, **makeup artist registered pursuant to section 3.3 of this act** and cosmetologist, together with the names and addresses of all establishments for hair braiding, cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure **or registration.**

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee **or registrant.**

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee **or registrant.**

Sec. 6. NRS 644.190 is hereby amended to read as follows:

644.190 1. It is unlawful for any person to conduct or operate a cosmetological establishment, an establishment for hair braiding, a school of cosmetology or any other place of business in which any one or any combination of the occupations of cosmetology are taught or practiced unless the person is licensed in accordance with the provisions of this chapter.

2. Except as otherwise provided in subsections 4 and 5, it is unlawful for any person to engage in, or attempt to engage in, the practice of cosmetology or any branch thereof, whether for compensation or otherwise, unless the person is licensed in accordance with the provisions of this chapter.

3. This chapter does not prohibit:

(a) Any student in any school of cosmetology established pursuant to the provisions of this chapter from engaging, in the school and as a student, in work connected with any branch or any combination of branches of cosmetology in the school.

(b) An electrologist's apprentice from participating in a course of practical training and study.

(c) A person issued a provisional license as an instructor pursuant to NRS 644.193 from acting as an instructor and accepting compensation therefor while accumulating the hours of training as a teacher required for an instructor's license.

(d) The rendering of cosmetological services by a person who is licensed in accordance with the provisions of this chapter, if those services are rendered in connection with photographic services provided by a photographer.

(e) A registered cosmetologist's apprentice from engaging in the practice of cosmetology under the immediate supervision of a licensed cosmetologist.

(f) A makeup artist registered pursuant to section 3.3 of this act from engaging in the practice of makeup artistry for compensation or otherwise in a licensed cosmetological establishment.

4. A person employed to render cosmetological services in the course of and incidental to the production of a motion picture, television program, commercial or advertisement is exempt from the licensing requirements of this chapter if he or she renders cosmetological services only to persons who will

appear in that motion picture, television program, commercial or advertisement.

5. A person practicing hair braiding is exempt from the licensing requirements of this chapter applicable to hair braiding if the hair braiding is practiced on a person who is related within the sixth degree of consanguinity and the person does not accept compensation for the hair braiding.

Sec. 6.5. NRS 644.214 is hereby amended to read as follows:

644.214 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license or evidence of registration issued pursuant to NRS 644.190 to 644.330, inclusive, **and sections 3.3 and 3.7 of this act** shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license or evidence of registration issued pursuant to NRS 644.190 to 644.330, inclusive, **and sections 3.3 and 3.7 of this act** shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Board.

3. A license or evidence of registration may not be issued or renewed by the Board pursuant to NRS 644.190 to 644.330, inclusive, **and sections 3.3 and 3.7 of this act** if the applicant:

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

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

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

Sec. 7. NRS 644.310 is hereby amended to read as follows:

644.310 Except as otherwise provided in NRS 644.209, upon application to the Board, accompanied by a fee of \$200, a person currently licensed in any branch of cosmetology under the laws of another state or territory of the United States or the District of Columbia may, without examination, unless the Board sees fit to require an examination, be granted a license to practice the

occupation in which the applicant was previously licensed upon proof satisfactory to the Board that the applicant:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. Is a citizen of the United States or is lawfully entitled to remain and work in the United States.
4. ~~Has successfully completed a nationally recognized written examination in this State or in the state or territory or the District of Columbia in which he or she is licensed.~~
- ~~5.~~ Is currently licensed in another state or territory or the District of Columbia.

Sec. 7.3. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of an establishment for hair braiding, a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, hair braider, electrologist, instructor, nail technologist, demonstrator of cosmetics or school of cosmetology, or **a registered makeup artist or a cosmetologist's apprentice** to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or anything of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license or a duplicate of the license as provided in NRS 644.290, 644.360, 644.3774 and 644.410.

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license ~~or~~ **or certificate of registration;**

(b) Revoke or suspend a license ~~or~~ **or certificate of registration;**

(c) Place the licensee **or registrant** on probation for a specified period;

(d) Impose a fine not to exceed \$2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 7.7. NRS 644.435 is hereby amended to read as follows:

644.435 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been issued a license or been registered pursuant to NRS 644.190 to 644.330, inclusive, **and sections 3.3 and 3.7 of this act,** the Board shall deem the license or registration issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the license or registration stating that the holder of the license or registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license or registration issued pursuant to NRS 644.190 to 644.330, inclusive, **and sections 3.3 and 3.7 of this act,** that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license or registration was suspended stating that the person whose license or registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 8. NRS 644.460 is hereby amended to read as follows:

644.460 1. The following persons are exempt from the provisions of this chapter:

(a) All persons authorized by the laws of this State to practice medicine, dentistry, osteopathic medicine, chiropractic or podiatry.

(b) Commissioned medical officers of the United States Army, Navy, or Marine Hospital Service when engaged in the actual performance of their official duties, and attendants attached to those services.

(c) Barbers, insofar as their usual and ordinary vocation and profession is concerned, when engaged in any of the following practices:

(1) Cleansing or singeing the hair of any person.

(2) Massaging, cleansing, stimulating, exercising or similar work upon the scalp, face or neck of any person, with the hands or with mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(d) Retailers, at a retail establishment, insofar as their usual and ordinary vocation and profession is concerned, when engaged in the demonstration of cosmetics if:

(1) The demonstration is without charge to the person to whom the demonstration is given; and

(2) The retailer does not advertise or provide a cosmetological service except cosmetics and fragrances.

(e) Photographers or their employees, insofar as their usual and ordinary vocation and profession is concerned, if the photographer or his or her employee does not advertise cosmetological services *or the practice of makeup artistry* and provides cosmetics without charge to the customer.

(f) Makeup artists ~~and other than makeup artists who are required to register pursuant to section 3.3 of this act.~~

2. Any school of cosmetology conducted as part of the vocational rehabilitation training program of the Department of Corrections or the Caliente Youth Center:

(a) Is exempt from the requirements of paragraph (c) of subsection 2 of NRS 644.400.

(b) Notwithstanding the provisions of NRS 644.395, shall maintain a staff of at least one licensed instructor.

Sec. 9. ~~[NRS 644.315 is hereby repealed.] (Deleted by amendment.)~~

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

†

~~TEXT OF REPEALED SECTION~~

~~644.315 Requirements for issuance and renewal of limited license for person licensed in another state or territory or District of Columbia.~~

~~1. The Board may, without examination, issue a limited license to a person currently licensed as a cosmetologist in another state or territory of the United States or the District of Columbia who intends to practice cosmetology in this State in the limited manner set forth in this section.~~

~~2. A limited license issued pursuant to this section authorizes the holder of the limited license to practice cosmetology in this State:~~

~~(a) In a resort hotel and in other types of locations the Board designates by regulation; and~~

~~(b) For not more than five periods, of not more than 10 days each, during any 1 year period for which the license is issued or renewed.~~

~~3. To apply for a limited license pursuant to this section, an applicant must submit to the Board:~~

~~(a) An application which includes the name of the applicant and the number or other designation identifying the applicant's license from the other jurisdiction;~~

~~(b) Any other information required by the Board; and~~

~~(c) An application fee of \$100.~~

~~4. The Board may issue a limited license pursuant to this section for not more than 1 year and may renew the limited license annually. A limited license expires 1 year after its date of issuance.~~

~~5. A holder of a limited license may renew the limited license on or before the date of its expiration. To renew the limited license, the holder must:~~

~~(a) Apply to the Board for renewal; and~~

- ~~—(b) Submit an annual renewal fee of \$100.~~
- ~~—6. Not less than 5 days before practicing cosmetology in this State pursuant to a limited license, the holder of a limited license shall notify the Board in writing of the holder's intention to practice cosmetology in this State. The notice must specify:~~
 - ~~—(a) The name and limited license number of the holder;~~
 - ~~—(b) The specific dates on which the holder will be practicing cosmetology in this State; and~~
 - ~~—(c) The name and address of the location at which the holder will be practicing cosmetology in this State.~~
- ~~—7. A holder of a limited license is subject to the regulatory and disciplinary authority of the Board to the same extent as any other licensed cosmetologist for all acts relating to the practice of cosmetology which occur in this State.~~
- ~~—8. The Board:~~
 - ~~—(a) Shall designate by regulation the types of locations, in addition to a resort hotel, at which a holder of a limited license may practice cosmetology in this State under a limited license.~~
 - ~~—(b) May adopt any other regulations as are necessary to carry out the provisions of this section.~~
- ~~—9. As used in this section, "resort hotel" has the meaning ascribed to it in NRS 463.01865.]~~

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 433.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 550.

AN ACT relating to criminal procedure; defining certain terms relating to the interception of wire, electronic or oral communications; providing that the interception, listening or recording of a wire, electronic or oral communication by a peace officer or certain other persons is not unlawful in certain circumstances; authorizing district courts to issue orders requiring a provider of electronic communication service to disclose the contents of a wire or electronic communication or a record or other information pertaining to a subscriber to, or customer of, such service in certain circumstances; **providing immunity from liability to a provider of electronic communication service and associated persons for disclosing such information;** revising certain existing definitions relating to the interception of wire or oral communications; authorizing the interception of electronic communications in certain circumstances; **requiring providing immunity from liability to a provider of electronic communication service, a public utility and associated persons for providing information or assistance concerning court-ordered interceptions of wire, electronic or oral communications; authorizing a**

judge to accept a facsimile or electronic copy of the signature of certain persons as part of an application for an order authorizing the interception of a wire, electronic or oral communication as an original signature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Attorney General or the district attorney of any county to apply to a Supreme Court justice or to a district judge in the county where the interception is to take place for an order authorizing the interception of wire or oral communications. The judge may grant an order authorizing such interception by certain investigative or law enforcement officers when the interception may provide evidence of the commission of certain crimes. (NRS 179.460) **Section 16** of this bill additionally authorizes the Attorney General or the district attorney to apply for an order authorizing the interception of an electronic communication. **Section 16 also provides that a provider of electronic communication service, a public utility and associated persons are immune from any liability relating to the interception of a wire, electronic or oral communication made pursuant to such a court order.** Sections 9-12, 16-23 and 25 of this bill add a reference to an electronic communication to the provisions of existing law that reference wire or oral communications. **Section 24** of this bill adds a reference to an electronic or oral communication to make the section consistent with the references to communications included in the federal statute cited therein.

Existing law also requires that each application for an order authorizing the interception of a wire or oral communication be made in writing upon oath or affirmation to a justice of the Supreme Court or district judge. (NRS 179.470) **Section 18** of this bill ~~requires~~ **authorizes** the judge to accept a facsimile or electronic copy of the signature of any person required to give an oath or affirmation as part of an application for an order authorizing the interception of a wire, electronic or oral communication as an original signature to the application.

Section 6 of this bill provides that the interception, listening or recording of a wire, electronic or oral communication by a peace officer or certain other persons is not unlawful if the peace officer or person is intercepting the communication of a person who has: (1) barricaded himself or herself, resulting in an imminent risk of harm to ~~the life (or property) of another~~ **person;** (2) created a hostage situation; or (3) threatened the imminent illegal use of an explosive.

Section 7 of this bill authorizes district courts of this State to issue orders requiring a provider of electronic communication service to disclose the contents of a wire or electronic communication or a record or other information pertaining to a subscriber to, or customer of, such service upon the application of a district attorney or the Attorney General, or their deputies, supported by an affidavit of a peace officer under the circumstances and upon the conditions prescribed by federal law. **Section 7 provides that a provider of electronic communication service and associated persons are immune from any**

liability relating to a disclosure made pursuant to such a court order.

Sections 11, 15, 19 and 25 of this bill replace existing references to a communications common carrier with the term “provider of electronic communication service.”

Sections 2-5 of this bill add new definitions of terms relating to the interception of wire, electronic or oral communications, and **sections 11 and 13-15** of this bill revise certain existing definitions relating to the interception of wire or oral communications.

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

Section 1. Chapter 179 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *“Electronic communication” means a transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transferred in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system. The term does not include:*

1. *A wire or oral communication.*
2. *A communication made through a tone-only paging device.*
3. *A communication from a tracking device.*
4. *Electronic funds transfer information stored by a financial institution in a communication system used for the electronic storage and transfer of funds.*
5. *The incoming or outgoing electronic or other impulses that identify the originating number of an instrument or device from which or to which a wire or electronic communication was transmitted.*

Sec. 3. *“Electronic communication service” means a service that provides to users of the service the ability to send or receive a wire or electronic communication.*

Sec. 3.5. *“Peace officer” means a category I peace officer, as defined in NRS 289.460.*

Sec. 4. *“Tracking device” means an electronic or mechanical device that permits the tracking of the movement of a person or an object.*

Sec. 5. *“User” means a person or entity who:*

1. *Uses an electronic communication service; and*
2. *Is authorized by the provider of the electronic communication service to engage in such use.*

Sec. 6. 1. *The interception, listening or recording of a wire, electronic or oral communication by a peace officer specifically designated by the Attorney General or the district attorney of any county, or a person acting under the direction or request of a peace officer, is not unlawful if the peace officer or person is intercepting the communication of a person who has:*

- (a) *Barricaded himself or herself and is not exiting or surrendering at the ~~direction or~~ lawful request of a peace officer, in circumstances in which there is ~~the potential for~~ imminent risk of harm to the life ~~for property~~ of*

~~the~~ another person ~~for others~~ as a result of ~~this or her~~ the barricaded person's actions or the actions of law enforcement in resolving the barricade situation;

- (b) Created a hostage situation; or
- (c) Threatened the imminent illegal use of an explosive.

2. For the purposes of subsection 1:

- (a) A barricade occurs when a person ~~refuses~~ :

(1) Refuses to come out from a covered or enclosed position after being provided an order to exit by a peace officer ~~+~~ ; or

(2) Is contained in an open area and the presence or approach of a peace officer may precipitate an adverse reaction by the person.

(b) A hostage situation occurs when a person holds another person against the other person's will, regardless of whether the person holding the other person has made a demand.

~~3. As used in this section, "peace officer" means:~~

~~(a) Sheriffs of counties and metropolitan police departments and their deputies;~~

~~(b) Investigators, agents, officers and employees of the Investigation Division of the Department of Public Safety who have the powers of peace officers pursuant to paragraph (d) of subsection 1 of NRS 289.270;~~

~~(c) Police officers of cities and towns;~~

~~(d) Agents of the State Gaming Control Board who are investigating any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;~~

~~(e) Special investigators employed by the Attorney General who have the powers of peace officers pursuant to NRS 289.170; and~~

~~(f) Investigators employed by a district attorney who have the powers of peace officers pursuant to NRS 289.170.]~~

Sec. 7. 1. District courts of this State may issue orders requiring a provider of electronic communication service to disclose the contents of a wire or electronic communication or a record or other information pertaining to a subscriber to, or customer of, such service upon the application of a district attorney or the Attorney General, or their deputies, supported by an affidavit of a peace officer under the circumstances and upon the conditions prescribed by 18 U.S.C. § 2703. ~~As used in this section, "peace officer" has the meaning ascribed to it in section 6 of this act.~~

2. A provider of electronic communication service, an officer, employee or agent thereof or another person associated with the provider of electronic communication service who, pursuant to an order issued by a district court pursuant to subsection 1, discloses the contents of a wire or electronic communication or a record or other information pertaining to a subscriber to, or customer of, the electronic communication service is immune from any liability relating to any disclosure made pursuant to the order.

Sec. 8. NRS 179.410 is hereby amended to read as follows:

179.410 As used in NRS 179.410 to 179.515, inclusive, and sections 2 to 7, inclusive, of this act, except where the context otherwise requires, the words

and terms defined in NRS 179.415 to 179.455, inclusive, **and sections 2 to 5, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 9. NRS 179.415 is hereby amended to read as follows:

179.415 “Aggrieved person” means a person who was a party to any intercepted wire , **electronic** or oral communication or a person against whom the interception was directed.

Sec. 10. NRS 179.420 is hereby amended to read as follows:

179.420 “Contents” when used with respect to any wire , **electronic** or oral communication includes any information concerning the identity of the parties to such communication or the existence, substance, purport or meaning of that communication.

Sec. 11. NRS 179.425 is hereby amended to read as follows:

179.425 “Electronic, mechanical or other device” means any device or apparatus which can be used to intercept a wire , **electronic** or oral communication other than:

1. Any telephone instrument, equipment or facility, or any component thereof:

(a) Furnished to the subscriber or user by a ~~communications common carrier~~ **provider of electronic communication service** in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; ~~or~~

(b) **Furnished by the subscriber or user for connection to the facilities of an electronic communication service and being used by the subscriber or user in the ordinary course of its business; or**

(c) Being used by a ~~communications common carrier~~ **provider of electronic communication service** in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his or her duties.

2. A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

Sec. 12. NRS 179.430 is hereby amended to read as follows:

179.430 “Intercept” means the aural acquisition of the contents of any wire , **electronic** or oral communication through the use of any electronic, mechanical or other device or of any sending or receiving equipment.

Sec. 13. NRS 179.435 is hereby amended to read as follows:

179.435 “Investigative or law enforcement officer” means any officer of the **United States or this State** or a political subdivision thereof who is empowered by the law of this ~~state~~ **State** to conduct investigations of or to make arrests for felonies, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses.

Sec. 14. NRS 179.440 is hereby amended to read as follows:

179.440 “Oral communication” means any verbal message uttered by a person exhibiting an expectation that such communication is not subject to interception, under circumstances justifying such expectation. **The term does not include an electronic communication.**

Sec. 15. NRS 179.455 is hereby amended to read as follows:

179.455 “Wire communication” means any ~~communication~~ **aural transfer** made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception , **including the use of such connection in a switching station**, furnished or operated by any person engaged ~~as a common carrier~~ in providing or operating such facilities for the transmission of intrastate, interstate or foreign communications.

Sec. 16. NRS 179.460 is hereby amended to read as follows:

179.460 1. The Attorney General or the district attorney of any county may apply to a Supreme Court justice or to a district judge in the county where the interception is to take place for an order authorizing the interception of wire , **electronic** or oral communications, and the judge may, in accordance with NRS 179.470 to 179.515, inclusive, **and sections 6 and 7 of this act**, grant an order authorizing the interception of wire , **electronic** or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when the interception may provide evidence of the commission of murder, kidnapping, robbery, extortion, bribery, escape of an offender in the custody of the Department of Corrections, destruction of public property by explosives, a sexual offense against a child, sex trafficking, a violation of NRS 200.463, 200.464 or 200.465, trafficking in persons in violation of NRS 200.467 or 200.468 or the commission of any offense which is made a felony by the provisions of chapter 453 or 454 of NRS.

2. A ~~good faith reliance by a~~ **provider of electronic communication service or a public utility** ~~on a court order shall constitute~~ **constitutes a complete defense to any civil or criminal action brought against the public utility on account of** , **an officer, employee or agent thereof or another person associated with the provider of electronic communication service or public utility who, pursuant to an order issued pursuant to subsection 1, provides information or otherwise assists an investigative or law enforcement officer in the interception of a wire, electronic or oral communication is immune from any liability relating to** any interception made pursuant to the order.

3. As used in this section, “sexual offense against a child” includes any act upon a child constituting:

- (a) Incest pursuant to NRS 201.180;
- (b) Lewdness with a child pursuant to NRS 201.230;
- (c) Sado-masochistic abuse pursuant to NRS 201.262;
- (d) Sexual assault pursuant to NRS 200.366;
- (e) Statutory sexual seduction pursuant to NRS 200.368;
- (f) Open or gross lewdness pursuant to NRS 201.210; or
- (g) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

Sec. 17. NRS 179.465 is hereby amended to read as follows:

179.465 1. Any investigative or law enforcement officer who, by any means authorized by NRS 179.410 to 179.515, inclusive, **and sections 2 to 7, inclusive, of this act** or 704.195 or 18 U.S.C. §§ 2510 to ~~{2520,}~~ 2522, inclusive, has obtained knowledge of the contents of any wire , **electronic** or oral communication, or evidence derived therefrom, may disclose the contents to another investigative or law enforcement officer or use the contents to the extent that the disclosure or use is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

2. Any person who has received, by any means authorized by NRS 179.410 to 179.515, inclusive, **and sections 2 to 7, inclusive, of this act** or 704.195 or 18 U.S.C. §§ 2510 to ~~{2520,}~~ 2522, inclusive, or by a statute of another state, any information concerning a wire , **electronic** or oral communication, or evidence derived therefrom intercepted in accordance with the provisions of NRS 179.410 to 179.515, inclusive, **and sections 2 to 7, inclusive, of this act** may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any criminal proceeding in any court or before any grand jury in this state, or in any court of the United States or of any state, or in any federal or state grand jury proceeding.

3. An otherwise privileged wire , **electronic** or oral communication intercepted in accordance with, or in violation of, the provisions of NRS 179.410 to 179.515, inclusive, **and sections 2 to 7, inclusive, of this act** or 18 U.S.C. §§ 2510 to ~~{2520,}~~ 2522, inclusive, does not lose its privileged character.

4. When an investigative or law enforcement officer engaged in intercepting wire , **electronic** or oral communications as authorized by NRS 179.410 to 179.515, inclusive, **and sections 2 to 7, inclusive, of this act**, intercepts wire , **electronic** or oral communications relating to offenses other than those specified in the order provided for in NRS 179.460, the contents of the communications and the evidence derived therefrom may be disclosed or used as provided in subsection 1. The direct evidence derived from the communications is inadmissible in a criminal proceeding, but any other evidence obtained as a result of knowledge obtained from the communications may be disclosed or used as provided in subsection 2 when authorized or approved by a justice of the Supreme Court or district judge who finds upon application made as soon as practicable that the contents of the communications were intercepted in accordance with the provisions of NRS 179.410 to 179.515, inclusive, **and sections 2 to 7, inclusive, of this act** or 18 U.S.C. §§ 2510 to ~~{2520,}~~ 2522, inclusive.

Sec. 18. NRS 179.470 is hereby amended to read as follows:

179.470 1. Each application for an order authorizing the interception of a wire , **electronic** or oral communication must be made in writing upon oath or affirmation to a justice of the Supreme Court or district judge and must state

the applicant's authority to make such application. Each application must include the following information:

(a) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application.

(b) A full and complete statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that an order should be issued, including:

(1) Details as to the particular offense that is being, has been or is about to be committed.

(2) A particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, the facilities to be used and the means by which such interception is to be made.

(3) A particular description of the type of communications sought to be intercepted.

(4) The identity of the person, if known, who is committing, has committed or is about to commit an offense and whose communications are to be intercepted.

(c) A full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous.

(d) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter.

(e) A full and complete statement of the facts concerning all previous applications known to the person authorizing and making the application made to any judge for authorization to intercept wire , **electronic** or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application.

(f) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

2. The judge may require the applicant to furnish additional testimony or documentary evidence under oath or affirmation in support of the application. Oral testimony must be reduced to writing.

3. Upon such application the judge may enter an *ex parte* order, as requested or as modified, authorizing interception of wire , **electronic** or oral communications within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause for belief that a person is committing, has committed or is about to commit an offense for which interception is authorized by NRS 179.460.

(b) There is probable cause for belief that particular communications concerning that offense will be obtained through such interception.

(c) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or appear to be too dangerous.

(d) There is probable cause for belief that the facilities from which, or the place where, the wire, **electronic** or oral communications are to be intercepted are being used or are about to be used by such person in connection with the commission of such offense or are leased to, listed in the name of, or commonly used by such person.

4. The judge ~~shall~~ may accept a facsimile or electronic copy of the signature of any person required to give an oath or affirmation as part of an application submitted pursuant to this section as an original signature to the application.

Sec. 19. NRS 179.475 is hereby amended to read as follows:

179.475 1. Each order authorizing the interception of any wire, **electronic** or oral communication ~~shall~~ **must** specify:

(a) The identity of the person, if known, whose communications are to be intercepted.

(b) The nature and location of the place where or communication facilities to which authority to intercept is granted, the facilities to be used and the means by which such interceptions ~~shall~~ **will** be made.

(c) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates.

(d) The identity of the agency authorized to intercept the communications, and of the person authorizing the application.

(e) The period of time during which such interception is authorized, including a statement as to whether or not the interception ~~shall~~ **will** automatically terminate when the described communication has been first obtained.

2. An order authorizing the interception of a wire, **electronic** or oral communication shall, upon request of the applicant, direct that a ~~communications common carrier,~~ **provider of electronic communication service**, landlord, custodian or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such ~~carrier,~~ **provider of electronic communication service**, landlord, custodian, or person is according the person whose communications are to be intercepted. Any ~~communications common carrier,~~ **provider of electronic communication service**, landlord, custodian or other person furnishing such facilities or technical assistance ~~shall~~ **must** be compensated therefor by the applicant at the prevailing rates.

3. No order entered under this section may authorize the interception of any wire , **electronic** or oral communication for any period longer than is necessary to achieve the objective of the authorization, and in no event longer than 30 days. Extensions of an order may be granted, but only upon application for an extension made in accordance with the procedures provided in NRS 179.470. The period of extension ~~shall~~ **must** be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than 30 days. Every order and extension thereof ~~shall~~ **must** contain a provision that the authorization to intercept ~~shall~~ **must** be executed as soon as practicable, ~~shall~~ **must** be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this statute, and ~~shall~~ **will** terminate upon attainment of the authorized objective, or in any event in 30 days.

Sec. 20. NRS 179.485 is hereby amended to read as follows:

179.485 The contents of any wire , **electronic** or oral communication intercepted by any means authorized by NRS 179.410 to 179.515, inclusive, ~~shall~~ **and sections 2 to 7, inclusive, of this act must**, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire , **electronic** or oral communication under this section ~~shall~~ **must** be done in such a way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings ~~shall~~ **must** be made available to the judge issuing such order and sealed under the judge's directions. Custody of the recordings ~~shall~~ **must** be placed with whomever the judge directs. They ~~shall~~ **must** not be destroyed except upon an order of the judge issuing such order and in any event ~~shall~~ **must** be kept for 10 years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsection 1 of NRS 179.465 for investigations. The presence of the seal provided for by this section, or a satisfactory explanation for the absence thereof, is a prerequisite for the use or disclosure of the contents of any wire , **electronic** or oral communication or evidence derived therefrom under subsection 2 of NRS 179.465.

Sec. 21. NRS 179.495 is hereby amended to read as follows:

179.495 1. Within a reasonable time but not later than 90 days after the termination of the period of an order or any extension thereof, the judge who issued the order shall cause to be served on the chief of the Investigation Division of the Department of Public Safety, persons named in the order and any other parties to intercepted communications, an inventory which must include notice of:

(a) The fact of the entry and a copy of the order.

(b) The fact that during the period wire , **electronic** or oral communications were or were not intercepted.

➡ Except as otherwise provided in NRS 239.0115, the inventory filed pursuant to this section is confidential and must not be released for inspection unless subpoenaed by a court of competent jurisdiction.

2. The judge, upon receipt of a written request from any person who was a party to an intercepted communication or from the person's attorney, shall make available to the person or the person's counsel those portions of the intercepted communications which contain the person's conversation. On an ex parte showing of good cause to a district judge, the serving of the inventory required by this section may be postponed for such time as the judge may provide.

Sec. 22. NRS 179.500 is hereby amended to read as follows:

179.500 The contents of any intercepted wire , **electronic** or oral communication or evidence derived therefrom ~~shall~~ **must** not be received in evidence or otherwise disclosed in any trial, hearing or other proceeding in any court of this state unless each party, not less than 10 days before the trial, hearing or proceeding, has been furnished with a copy of the court order and accompanying application under which the interception was authorized and a transcript of any communications intercepted. Such 10-day period may be waived by the judge if the judge finds that it was not possible to furnish the party with such information 10 days before the trial, hearing or proceeding and that the party will not be prejudiced by the delay in receiving such information.

Sec. 23. NRS 179.505 is hereby amended to read as follows:

179.505 1. Any aggrieved person in any trial, hearing or proceeding in or before any court, department, officer, agency or other authority of this State, or a political subdivision thereof, may move to suppress the contents of any intercepted wire , **electronic** or oral communication, or evidence derived therefrom, on the grounds that:

(a) The communication was unlawfully intercepted.

(b) The order of authorization under which it was intercepted is insufficient on its face.

(c) The interception was not made in conformity with the order of authorization.

(d) The period of the order and any extension had expired.

2. Such **a** motion ~~shall~~ **must** be made before the trial, hearing or proceeding unless there was no opportunity to make such **a** motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire , **electronic** or oral communication, or evidence derived therefrom, ~~shall~~ **must** be treated as having been obtained in violation of NRS 179.410 to 179.515, inclusive ~~+~~ , **and sections 2 to 7, inclusive, of this act.** The judge, upon the filing of such motion by the aggrieved person, may in the judge's discretion make available to the aggrieved person or the aggrieved person's counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interest of justice.

Sec. 24. NRS 179.515 is hereby amended to read as follows:

179.515 1. In January of each year, the Attorney General and the district attorney of each county shall report to the Administrative Office of the United States Courts the information required to be reported pursuant to 18 U.S.C. §

2519. A copy of the report must be filed with the Investigation Division of the Department of Public Safety. In the case of a joint application by the Attorney General and a district attorney both shall make the report.

2. Every justice of the Supreme Court or district judge who signs an order authorizing or denying an interception shall, within 30 days after the termination of the order or any extension thereof, file with the Investigation Division of the Department of Public Safety on forms approved by the Division a report containing the same information required to be reported pursuant to 18 U.S.C. § 2519. The report must also indicate whether a party to an intercepted wire, **electronic or oral** communication had consented to the interception.

3. The willful failure of any officer to report any information known to the officer which is required to be reported pursuant to subsection 1 or 2 constitutes malfeasance in office and, in such cases, the Secretary of State shall, when the wrong becomes known to the Secretary of State, institute legal proceedings for the removal of that officer.

4. The Investigation Division of the Department of Public Safety shall, on or before April 30 of each year, compile a report consisting of a summary and analysis of all reports submitted to the Division pursuant to this section during the previous calendar year. The report is a public record and may be inspected by any person during the regular office hours of the Division.

Sec. 25. NRS 199.540 is hereby amended to read as follows:

199.540 1. It is unlawful for an officer or employee of a court or law enforcement agency, or any employee of a ~~communications common carrier,~~ **provider of electronic communication service**, landlord, custodian or other person who is ordered pursuant to subsection 2 of NRS 179.475 to furnish information, facilities and technical assistance necessary to accomplish an authorized interception of a wire, **electronic** or oral communication, having knowledge that an order has been applied for or has been issued authorizing the interception of a wire, **electronic** or oral communication in accordance with NRS 179.410 to 179.515, inclusive, **and sections 2 to 7, inclusive, of this act** to:

(a) Give notice of the interception; or
 (b) Attempt to give notice of the interception,
 ➤ to any person with the intent to obstruct, impede or prevent the interception of the wire, **electronic** or oral communication.

2. It is unlawful for an officer or employee of a court or law enforcement agency, or any employee of a ~~communications common carrier,~~ **provider of electronic communication service**, landlord, custodian or other person who is ordered pursuant to subsection 2 of NRS 179.475 to furnish information, facilities and technical assistance necessary to accomplish an authorized interception of a wire, **electronic** or oral communication, having knowledge that an order has been applied for or has been issued authorizing the use of a pen register or trap and trace device to:

(a) Give notice of the use of the pen register or device; or

(b) Attempt to give notice of the use of the pen register or device,
 ➔ to any person with the intent to obstruct, impede or prevent that use.

3. A person who violates any provision of subsection 1 or 2 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 445.

Bill read second time.

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

Amendment No. 637.

AN ACT relating to redevelopment; requiring a portion of the revenues from taxes imposed on property in certain redevelopment areas to be set aside and used for public educational facilities; revising provisions relating to the extension of certain redevelopment plans; **revising provisions relating to the recalculation of the total assessed value of taxable property in certain redevelopment areas**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a redevelopment plan, and any amendments to the plan, adopted by the redevelopment agency of a city or county on or after January 1, 1991, terminates not later than 30 years after the date on which the original redevelopment plan was adopted. (NRS 279.439) **Section 3** of this bill extends to a maximum of 45 years the date of termination of such a redevelopment plan, and any amendments to the plan, adopted by a city **located in a county** whose population is ~~125,000~~ **700,000** or more ~~but less than 500,000~~ (currently ~~the City of Henderson~~) **Clark County**) if the city council adopts the extension of the plan by ordinance. If such an ordinance is adopted, **section 1** of this bill requires that 18 percent of the revenues received **from taxes on the taxable property located in the redevelopment area affected by the ordinance** on or after the effective date of the ordinance be set aside to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. **Section 1** also provides that the obligation to set aside such revenues is subordinate to any existing obligations of the agency.

Under existing law, the date of termination of a redevelopment plan and any amendments to the plan adopted before January 1, 1991, by a redevelopment agency of a city whose population is 500,000 or more (currently the City of Las Vegas) is authorized to be extended by ordinance adopted by the city council of that city from a maximum of 45 years to 60 years if the following conditions exist on the date on which the extension is adopted: (1) the assessed value of each redevelopment project in the redevelopment area is not less than the assessed value of the redevelopment project in the year in which the redevelopment plan was adopted; (2) the assessed value of the redevelopment

area is not less than 75 percent of the assessed value of the redevelopment area in the year in which the redevelopment plan was adopted; and (3) the agency has \$100 million or more in total outstanding indebtedness represented by bonds and other securities. (NRS 279.438) **Section 2** of this bill changes the assessed value requirement in the first condition from the basis of each individual redevelopment project to the aggregate of redevelopment projects in the redevelopment area and eliminates the third condition.

Under existing law, a redevelopment agency in a city located in a county whose population is 700,000 or more (currently Clark County) is authorized to adopt, in certain circumstances, an ordinance which provides for the recalculation of the total assessed value of the taxable property in a redevelopment area for certain purposes. If such a redevelopment agency adopts such an ordinance and receives certain revenue from taxes, existing law requires that 18 percent of the revenue received on or after the effective date of the ordinance be set aside to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. (NRS 279.676) Section 3.5 of this bill revises the application of the recalculated assessed value in the tax distribution formula for the redevelopment area and specifies that the revenue received by the agency is from taxes on the taxable property located in the redevelopment area affected by the ordinance that is adopted.

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

Section 1. Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, an agency of a city located in a county whose population is 700,000 or more ~~located in a county whose population is 250,000 or more but less than 500,000~~ that adopts an ordinance pursuant to subsection 3 of NRS 279.439 and which receives revenue ~~from taxes~~ pursuant to paragraph (b) of subsection 1 of NRS 279.676 from taxes on the taxable property located in the redevelopment area affected by the ordinance shall set aside not less than 18 percent of such revenue received on or after the effective date of the ordinance to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. The provisions of this subsection do not apply if such an agency is required pursuant to subsection 6 of NRS 279.676 to set aside not less than 18 percent of revenue received ~~from taxes~~ pursuant to paragraph (b) of subsection 1 of NRS 279.676 from taxes on the taxable property located in the redevelopment area affected by the ordinance adopted by the agency pursuant to subsection 5 of NRS 279.676 on or after the effective date of the that ordinance to improve and preserve existing public educational

facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. For each fiscal year, the agency shall prepare a written report concerning the amount of money expended for the purposes set forth in this subsection and shall, on or before November 30 of each year, submit a copy of the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission, 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.

2. The obligation of an agency pursuant to subsection 1 to set aside not less than 18 percent of the revenue ~~(from taxes)~~ allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 from taxes on the taxable property located in the redevelopment area affected by the ordinance adopted by the agency pursuant to subsection 3 of NRS 279.439 is subordinate to any existing obligations of the agency. As used in this subsection, “existing obligations” means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before the effective date of the ordinance adopted by the agency pursuant to subsection 3 of NRS 279.439, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency on or after the effective date of the ordinance adopted by the agency pursuant to subsection 3 of NRS 279.439 shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

Sec. 2. NRS 279.438 is hereby amended to read as follows:

279.438 1. A redevelopment plan adopted before January 1, 1991, and any amendments to the plan must terminate at the end of the fiscal year in which the principal and interest of the last maturing of the securities issued before that date concerning the redevelopment area are fully paid or:

(a) With respect to a redevelopment plan adopted by the agency of a city whose population is 500,000 or more, if the requirements set forth in subsection 2 are met, 60 years after the date on which the original redevelopment plan was adopted, whichever is later.

(b) With respect to any other redevelopment plan, including a redevelopment plan adopted by an agency of a city whose population is 500,000 or more, if the requirements set forth in subsection 2 are not met, 45 years after the date on which the original redevelopment plan was adopted, whichever is later.

2. A redevelopment plan adopted by an agency of a city whose population is 500,000 or more may terminate on the date prescribed by paragraph (a) of subsection 1 only if the legislative body adopts an extension of the redevelopment plan by ordinance and, on the date on which the extension is adopted:

(a) The assessed value of ~~each~~ **the aggregate number of** redevelopment ~~project~~ **projects** in the redevelopment area is not less than the assessed value

of the **aggregate number of** redevelopment ~~project~~ **projects** in the year in which the redevelopment plan was adopted; **and**

(b) The assessed value of the redevelopment area is not less than 75 percent of the assessed value of the redevelopment area in the year in which the redevelopment plan was adopted. ~~}; and~~

~~—(c) The agency has \$100 million or more in total outstanding indebtedness represented by bonds and other securities.}~~

Sec. 3. NRS 279.439 is hereby amended to read as follows:

279.439 ~~{A}~~

1. ***Except as otherwise provided in subsections 2 and 3, a*** redevelopment plan adopted on or after January 1, 1991, and any amendments to the plan must terminate not later than 30 years after the date on which the original redevelopment plan is adopted.

2. ***A redevelopment plan, and any amendments to the plan, adopted on or after January 1, 1991, by an agency of a city located in a county whose population is ~~{250,000}~~ 700,000 or more ~~{but less than 500,000}~~ that meets the requirement of subsection 3 must terminate not later than 45 years after the date on which the original redevelopment plan is adopted.***

3. ***A redevelopment plan, and any amendments to the plan, may terminate on the date prescribed by subsection 2 only if the legislative body adopts an extension of the redevelopment plan by ordinance.***

Sec. 3.5. **NRS 279.676 is hereby amended to read as follows:**

279.676 1. Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in the redevelopment area each year by or for the benefit of the State, any city, county, district or other public corporation, after the effective date of the ordinance approving the redevelopment plan, must be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment area as shown upon the assessment roll used in connection with the taxation of the property by the taxing agency, last equalized before the effective date of the ordinance, must be allocated to and when collected must be paid into the funds of the respective taxing agencies as taxes by or for such taxing agencies on all other property are paid. To allocate taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment area on the effective date of the ordinance but to which the territory has been annexed or otherwise included after the effective date, the assessment roll of the county last equalized on the effective date of the ordinance must be used in determining the assessed valuation of the taxable property in the redevelopment area on the effective date. If property which was shown on the assessment roll used to determine the amount of taxes allocated to the taxing agencies is transferred to the State and becomes exempt from taxation, the assessed valuation of the exempt property as shown on the assessment roll last equalized before the date on which the property was transferred to the State

must be subtracted from the assessed valuation used to determine the amount of revenue allocated to the taxing agencies.

(b) Except as otherwise provided in paragraphs (c) and (d) and NRS 540A.265, that portion of the levied taxes each year in excess of the amount set forth in paragraph (a) must be allocated to and when collected must be paid into a special fund of the redevelopment agency to pay the costs of redevelopment and to pay the principal of and interest on loans, money advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, incurred by the redevelopment agency to finance or refinance, in whole or in part, redevelopment. Unless the total assessed valuation of the taxable property in a redevelopment area exceeds the total assessed value of the taxable property in the redevelopment area as shown by:

(1) The assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan; or

(2) The assessment roll last equalized before the effective date of an ordinance adopted pursuant to subsection 5,

➡ whichever occurs later, less the assessed valuation of any exempt property subtracted pursuant to paragraph (a), all of the taxes levied and collected upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies. When the redevelopment plan is terminated pursuant to the provisions of NRS 279.438 and 279.439 and all loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a tax rate levied by a taxing agency to produce revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness that was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the debt service fund of that taxing agency.

(d) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a new or increased tax rate levied by a taxing agency and was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the appropriate fund of the taxing agency.

2. Except as otherwise provided in subsection 3, in any fiscal year, the total revenue paid to a redevelopment agency must not exceed:

(a) In a county whose population is 100,000 or more or a city whose population is 150,000 or more, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 10 percent of the total assessed valuation of the municipality.

(b) In a county whose population is 30,000 or more but less than 100,000 or a city whose population is 25,000 or more but less than 150,000, an amount

equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 15 percent of the total assessed valuation of the municipality.

(c) In a county whose population is less than 30,000 or a city whose population is less than 25,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 20 percent of the total assessed valuation of the municipality.

➔ If the revenue paid to a redevelopment agency must be limited pursuant to paragraph (a), (b) or (c) and the redevelopment agency has more than one redevelopment area, the redevelopment agency shall determine the allocation to each area. Any revenue which would be allocated to a redevelopment agency but for the provisions of this section must be paid into the funds of the respective taxing agencies.

3. The taxing agencies shall continue to pay to a redevelopment agency any amount which was being paid before July 1, 1987, and in anticipation of which the agency became obligated before July 1, 1987, to repay any bond, loan, money advanced or any other indebtedness, whether funded, refunded, assumed or otherwise incurred.

4. For the purposes of this section, the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan is the assessment roll in existence on March 15 immediately preceding the effective date of the ordinance.

5. If in any year the assessed value of the taxable property in a redevelopment area located in a city in a county whose population is 700,000 or more as shown by the assessment roll most recently equalized has decreased by 10 percent or more from the assessed value of the taxable property in the redevelopment area as shown by the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan, the redevelopment agency may adopt an ordinance which provides that the total assessed value of the taxable property in the redevelopment area for the purposes of ~~paragraph~~ **paragraphs (a) and (b)** of subsection 1 is the total assessed value of the taxable property in the redevelopment area as shown by the assessment roll last equalized before the effective date of the ordinance adopted pursuant to this subsection. A redevelopment agency may adopt an ordinance pursuant to this subsection only once, and the election to adopt such an ordinance is irrevocable.

6. An agency which adopts an ordinance pursuant to subsection 5 and which receives revenue ~~[from taxes]~~ pursuant to paragraph (b) of subsection 1 **from taxes on the taxable property located in the redevelopment area affected by the ordinance** shall set aside not less than 18 percent of that revenue received on and after the effective date of the ordinance to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. For each fiscal year, the agency shall prepare a written report concerning the amount of money expended for the purposes set forth in this subsection and shall, on or before November 30 of each year, submit a

copy of the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission, 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.

7. The obligation of an agency pursuant to subsection 6 to set aside not less than 18 percent of the revenue ~~from taxes~~ allocated to and received by the agency pursuant to paragraph (b) of subsection 1 **from taxes on the taxable property located in the redevelopment area affected by the ordinance adopted by the agency pursuant to subsection 5** is subordinate to any existing obligations of the agency. As used in this subsection, “existing obligations” means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by an agency before the effective date of an ordinance adopted by the agency pursuant to subsection 5, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency on or after the effective date of an ordinance adopted by the agency pursuant to subsection 5 shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

Sec. 4. NRS 279.680 is hereby amended to read as follows:

279.680 Except as otherwise provided in NRS 279.685 ~~and~~ ***section 1 of this act***, in any redevelopment plan, or in the proceedings for the advance of money, or the making of loans, or the incurring of any indebtedness, whether funded, refunded, assumed or otherwise, by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes mentioned in paragraph (b) of subsection 1 of NRS 279.676 may be irrevocably pledged for the payment of the principal of and interest on those loans, advances or indebtedness.

Sec. 5. NRS 279.687 is hereby amended to read as follows:

279.687 A school district shall not use any money received pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 279.685 , ~~for~~ paragraph (c) of subsection 1 of NRS 279.685 ***or section 1 of this act*** to reduce or supplant the amount of any money which the school district would otherwise expend for the purposes described in subparagraph (2) of paragraph (b) of subsection 1 of NRS 279.685 , ~~and~~ paragraph (c) of subsection 1 of NRS 279.685 ~~and~~ ***section 1 of this act***, respectively.

Sec. 6. The provisions of subsection 1 of NRS 218D.380 do not apply to the reporting requirements of section 1 of this act.

Sec. 7. This act becomes effective on July 1, 2015.

Assemblyman Ellison moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 450.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 564.

SUMMARY ~~[Creates the Interstate 11 Toll Road Project.]~~ **Revises provisions relating to transportation.** (BDR ~~[S-1086])~~ **35-1086)**

AN ACT relating to highways; authorizing the Department of Transportation to ~~establish projects for toll roads in connection with the proposed route of Interstate 11 through this State; authorizing the Department to enter into one or more public-private partnerships to design, construct, develop, finance, operate or maintain such a toll road project; authorizing the issuance of certain bonds or notes of this State to finance a toll road project;~~ **enter into a public-private partnership to plan, design, construct, improve, finance, operate and maintain an eligible transportation facility in this State; authorizing the Board of Directors of the Department to establish user fees, administrative fines and other penalties and charges relating to the use of such a facility; providing for the disposition of money which is received and is to be retained by the Department pursuant to a public-private partnership; authorizing the Department to grant to a private partner the use of certain real property; exempting such use of real property from all real property and ad valorem taxes; authorizing the Department to approve, upon request, the construction of a toll bridge or toll road by a person; requiring the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle of a registered owner who fails to pay a user fee; authorizing the Department of Motor Vehicles to establish certain administrative fees; providing for civil penalty;** **penalties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 14 of this bill authorizes the Department of Transportation to establish toll road projects along the proposed route of the future Interstate 11 that will run north from the Arizona-Mexico border, through Nevada, to the southern border of Canada. Section 14 also provides that any toll road must be and remain a public highway owned by the State. Section 16 of this bill authorizes the Department to enter into contracts with one or more private partners for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for a toll road project. Section 22 of this bill requires the Department to establish or include in a public-private partnership: (1) a schedule of user fees for the use of a toll road project or a methodology for establishing such a schedule; and (2) administrative fines and other penalties for nonpayment of user fees. Section 22 provides that certain motor vehicles are exempt, and authorizes the Department to establish other exemptions, from the user fees. Section 23 of this bill provides that the registered owner of a motor vehicle is, with certain exceptions, subject to administrative fines and penalties for failure to pay a required user fee. Section 23 also requires the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle if the~~

~~Department of Transportation or a private partner provides notice to the Department of Motor Vehicles that the registered owner of the motor vehicle has failed to pay a required user fee.~~

~~—Section 24 of this bill requires that all money that is received and is to be retained by the Department of Transportation pursuant to a public-private partnership in connection with a toll road project that is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any highway in this State must be deposited in the State Highway Fund and, except for costs of administration, must be used exclusively for the construction, maintenance and repair of the public highways of this State. Section 24 also provides that the money must first be used to defray the obligations of the Department under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of a toll road project.~~

~~—Section 25 of this bill provides that a toll road project and any property improvement determined by the Department to be necessary or desirable therefor may be financed by the private partner to a public-private partnership using its own funds or obtaining funds in any lawful manner for that entity or by the issuance of revenue bonds or notes of the State.~~

~~—Section 27 of this bill provides that a private partner is exempt from any assessment on property which the Department provides to the private partner pursuant to a public-private partnership and on which a toll road project is located. Section 28 of this bill requires a private partner to use competitive bidding to award contracts for construction work on a toll road project and to pay prevailing wages to workers engaged in construction on the toll road project.~~

~~—Section 32 of this bill requires the Department to submit a report concerning each toll road project to the Legislative Commission on or before February 1 of each even-numbered year and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature on or before February 1 of each odd-numbered year. Section 34 of this bill requires the Department to submit quarterly reports relating to each toll road project to the Legislative Commission and Interim Finance Committee.}~~

Section 46 of this bill authorizes the Department of Transportation to enter into one or more public-private partnerships for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for certain transportation facilities. Section 52 of this bill provides that a public-private partnership may authorize the charging of user fees in certain circumstances and sets forth specific exceptions to the charging of user fees.

Section 53 of this bill authorizes the Board of Directors of the Department to: (1) establish a schedule or methodology for charging user fees for the use of a transportation facility; (2) establish administrative fines and other penalties and charges for nonpayment of user fees; and (3) approve exemptions from the user fees for certain motor vehicles. Section

54 of this bill requires the Department to adopt regulations establishing a privacy policy regarding the collection and use of personal identifying information necessary for the collection and enforcement of user fees.

Section 56 of this bill provides that the registered owner of a motor vehicle is subject to administrative fines, late charges and other penalties and charges for failure to pay a required user fee. Section 57 of this bill requires the Department of Motor Vehicles to place a hold on the renewal of the registration of a motor vehicle if notified that the registered owner of the motor vehicle has failed to pay a required user fee.

Section 59 of this bill requires that all money which is received and retained by the Department of Transportation pursuant to a public-private partnership: (1) be deposited in the State Highway Fund; (2) be accounted for separately; (3) be used first to defray the obligations of the Department under the public-private partnership; and (4) except for costs of administration, be used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways of Nevada. Section 50 of this bill authorizes certain financing of an eligible transportation facility. Section 52 of this bill authorizes the Department to grant to a private partner the use of certain real property and exempts the use of that real property from all real property and ad valorem taxes.

Section 53 authorizes the Department to adopt regulations to carry out the provisions of this bill. Section 64 of this bill requires the Board of Directors of the Department to submit certain reports concerning the status of any eligible transportation facilities to the Legislative Commission and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

Under existing law, the Department may authorize private persons to develop, construct, improve, maintain or operate certain transportation facilities, except toll bridges or toll roads. (NRS 408.5471-408.549) Section 71 of this bill allows toll bridges, toll roads and other transportation facilities that charge user fees, and section 74 of this bill provides that certain provisions governing public-private partnerships apply to such toll bridges, toll roads and transportation facilities that charge user fees.

Section 81 of this bill requires the Department of Transportation to allocate \$20,000,000 or the amount saved from the use of a public-private partnership, whichever is less, for the support of the US 50/South Shore Community Revitalization Project.

WHEREAS, The Legislature finds that the State of Nevada is faced with growing traffic congestion and the limited ability to expand transportation infrastructure because of financial, environmental and physical constraints; and

WHEREAS, The Legislature finds that it is beneficial to explore alternative approaches to developing transportation facilities, including managing the use of existing and planned transportation facilities; and

WHEREAS, The Legislature finds that public-private partnerships have been demonstrated to be an effective means of providing motorists with more reliable travel opportunities and more choices, including within congested freeway corridors; and

WHEREAS, The Legislature finds that public-private partnerships are an effective means of financing the development, operation and maintenance of a transportation facility; and

WHEREAS, It is the intent of the Legislature to maximize the effectiveness and efficiency of the State's transportation facilities and highway system; and

WHEREAS, It is the intent of the Legislature to authorize the Department of Transportation to establish and carry out transportation facilities to increase efficiency, enhance mobility, expand capacity, improve the effectiveness of transit and facilitate the feasibility of financing improvements through public-private partnerships; now, therefore,

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

Section 1. ~~{Sections 1 to 34, inclusive, of this act may be cited as the Interstate 11 Toll Road Project Act. This act shall only apply to the proposed Interstate 11 and not to any other project of the Department.}~~ **(Deleted by amendment.)**

Sec. 2. ~~{As used in sections 1 to 34, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 13, inclusive, of this act have the meanings ascribed to them in those sections.}~~ **(Deleted by amendment.)**

Sec. 3. ~~{“Authorized emergency vehicle” has the meaning ascribed to it in NRS 484A.020.}~~ **(Deleted by amendment.)**

Sec. 4. ~~{“Concession” means any lease, ground lease, franchise, easement, permit, right of entry, operating agreement or other binding agreement transferring rights for the use or control, in whole or in part, of the project by the Department to a private partner.}~~ **(Deleted by amendment.)**

Sec. 5. ~~{“Department” means the Department of Transportation.}~~ **(Deleted by amendment.)**

Sec. 6. ~~{“Interstate 11” means Interstate Route I 11, designated in the Moving Ahead for Progress in the 21st Century Act, Pub. L. No. 112-141, § 1104(b)(2), that is proposed to extend north from the border of Arizona and Mexico, through this State, to the southern border of Canada.}~~ **(Deleted by amendment.)**

Sec. 7. ~~{“Motor vehicle” has the meaning ascribed to it in NRS 484A.130.}~~ **(Deleted by amendment.)**

Sec. 8. ~~{“Private partner” means a person with whom the Department enters into a public-private partnership.}~~ **(Deleted by amendment.)**

Sec. 9. ~~["Public-private partnership" means a contract entered into by the Department and a private partner under which the private partner:~~

~~1. Assists the Department in defining a potential project concerning the toll road project and negotiates terms for potentially carrying out the planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights of way for, or any combination thereof, the toll road project, or any portion thereof; or~~

~~2. Assumes responsibility for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights of way for the toll road project, or any portion thereof.}] **(Deleted by amendment.)**~~

Sec. 10. ~~["Registered owner" means a person whose name appears in the records of the Department of Motor Vehicles as the person to whom a motor vehicle is registered.}] **(Deleted by amendment.)**~~

Sec. 11. ~~["Toll road" means a highway and appurtenant facilities for which a user must pay a user fee as a condition of use.}] **(Deleted by amendment.)**~~

Sec. 12. ~~["Toll road project" means an Interstate 11 toll road project established by the Department pursuant to section 14 of this act.}] **(Deleted by amendment.)**~~

Sec. 13. ~~["User fee" means a toll, fee, fare or other similar charge, including, without limitation, any incidental, account maintenance, administrative, credit card or video tolling fee or charge authorized by the Department or a public-private partnership and imposed on a person for his or her use of a toll road.}] **(Deleted by amendment.)**~~

Sec. 14. ~~[1. The Department may establish a toll road project in connection with the proposed Interstate 11 project. The toll road project may consist of a toll road directly connecting or comprising any portion of the proposed route of Interstate 11 in this State and may:~~

~~—(a) Include, without limitation, highways, roads, bridges, on-ramps, off-ramps, direct connectors to or from other highways or arterials, tunnels, connectors to an airport, pavement, shoulders, structures, culverts, curbs, toll gantries and systems, drains, rights-of-way, buildings, communication facilities, equipment appurtenances, lighting, signage, service centers, operations centers, services, personal property and works incidental to, related to or desirable for highway design, construction, improvement, maintenance or operation required, laid out, constructed, improved, maintained or operated for highway purposes.~~

~~—(b) Include any appurtenant facilities and facilities necessary for financing, connectivity, operations, maintenance, mobility or safety of a toll road project, which may include tolled and nontolled elements and on- and off-site facilities.~~

~~—(c) Be developed in one or more phases, through one or more solicitations and with one or more private partners.~~

~~2. The Department may perform such tasks as are necessary and appropriate to plan, finance, design, construct, improve, maintain, operate and acquire rights of way for a toll road project, including, without limitation:~~

~~—(a) Plan, design, finance, construct, maintain, operate and make such other improvements to existing highways as may be necessary and appropriate to accommodate, develop and own a toll road project.~~

~~—(b) Determine the allowable uses of and the goals, standards, specifications and criteria of a toll road project.~~

~~—(c) Enter into agreements with any local government or other political subdivision of this State, another state or the Federal Government for planning, designing, financing, constructing, improving, maintaining, operating and acquiring rights of way for a toll road project.~~

~~—(d) Enter into contracts with a public private partnership for planning, designing, financing, constructing, improving, maintaining, operating and acquiring rights of way for a toll road project.~~

~~—(e) Retain legal, financial, technical and other consultants to assist the Department concerning the toll road project.~~

~~—(f) Secure financial and other assistance for planning, designing, financing, constructing, improving, maintaining, operating and acquiring rights of way for a toll road project.~~

~~—(g) Apply for, accept and expend money from any lawful source, including, without limitation, any public or private funding, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out a toll road project.~~

~~—(h) Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the Department to carry out a toll road project.~~

~~—(i) Pay any compensation to which a private partner is entitled, pursuant to the terms of a public private partnership, upon the termination of the public private partnership.~~

~~—(j) Enter into a bond indenture, loan agreement, interest rate swap, financing agreement, security agreement, pledge agreement, credit facility, trust agreement or other financial agreement in connection with the financing of a toll road project.~~

~~—3. A toll road project, whether planned, designed, financed, constructed, improved, maintained or operated by the Department or private partner, must be and remain:~~

~~—(a) A public highway;~~

~~—(b) A public use;~~

~~—(c) A public facility; and~~

~~—(d) Owned by the Department or a political subdivision of this State.~~

~~—4. Before construction of a toll road project begins, existing state and federal highways connecting with the toll road project shall be deemed alternate routes to the toll road which do not require a user fee and which accommodate all classes of vehicles. The Department may establish one or more additional alternate routes to the toll road which do not require a user fee and which can accommodate all classes of vehicles that may be accommodated~~

~~on existing state and federal highways as of the date that construction of the toll road project begins.}] (Deleted by amendment.)~~

~~Sec. 15. [The Department shall not, in connection with a toll road project:~~

~~1. Request the Federal Government to prohibit or otherwise seek to prohibit the use on existing state highways connecting with the toll road project of any classes of vehicles which are authorized on those highways as of October 1, 2015; and~~

~~2. Exercise any authority delegated to the Department to prohibit the use on existing state highways connecting with the toll road project of any classes of vehicles which are authorized on those highways as of October 1, 2015.}]~~

~~(Deleted by amendment.)~~

~~Sec. 16. [1. The Department may enter into a public-private partnership with one or more private partners for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights of way for a toll road project. A public-private partnership entered into pursuant to this section may include, without limitation, a concession and must be awarded through one or more solicitations that must include, without limitation, some or all of the requests for qualifications, short-listing of qualified proposers, requests for proposals, negotiations and best and final offers.~~

~~2. For any solicitation in which the Department issues a request for qualifications, request for proposals or similar solicitation for a public-private partnership, the Department may determine which factors it will consider and, except as otherwise provided in subsection 5, the relative weight of those factors in the evaluation process for a toll road project to obtain the best value for the Department.~~

~~3. Each request for proposals issued for a toll road project must require each person submitting a proposal to include with the proposal an executive summary. The executive summary must address the major elements of the proposal but must not include the financial terms of the proposal, the financing plan or other confidential or proprietary information or trade secrets that the person submitting the proposal intends to be exempt from disclosure.~~

~~4. The executive summary for each proposal must be released to the public by the Department.~~

~~5. After evaluation of the proposals submitted in response to a request for proposals, the Department may enter into negotiations with the applicant whose proposal appeared to have the best value to enter into a public-private partnership. In determining the best value, the Department shall assign a relative weight of 5 percent to an applicant who submits to the Department a signed affidavit which certifies that, for the planning, design, construction, improvement, maintenance and operation of the toll road project:~~

~~(a) At least 65 percent of all workers employed on the toll road project, including, without limitation, any employees of the applicant, contractor and any subcontractors engaged in the toll road project, will hold a valid driver's license or identification card issued by the Department of Motor Vehicles;~~

~~(b) All vehicles used primarily for the toll road project will be:~~

~~— (1) Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or~~

~~— (2) Registered in this State;~~

~~— (c) At least 65 percent of the design professionals working on the toll road project, including, without limitation, any employees of the applicant, contractor and any subcontractor engaged on the toll road project, will have a valid driver's license or identification card issued by the Department of Motor Vehicles;~~

~~— (d) At least 25 percent of the suppliers of the materials used for the toll road project will be located in this State unless the Department requires the acquisition of materials or equipment that cannot be obtained from a supplier located in this State; and~~

~~— (e) The applicant, contractor and any subcontractor engaged on the toll road project will maintain and make available for inspection within this State his or her records concerning payroll relating to the toll road project.~~

~~— 6. If the Department is unable to negotiate a public private partnership with the applicant whose proposal appeared to have the best value, upon such terms and conditions that the Department determines to be in the best interest of the public, the Department may suspend or terminate negotiations with that applicant. The Department may then undertake negotiations with the next highest ranked applicant in sequence until a public private partnership is entered into or a determination is made by the Department to reject all applicants that submitted proposals.~~

~~— 7. After the award and execution of the public private partnership, the Department shall make available to the applicants and the public the results of the evaluations of proposals and the final rankings of the applicants.~~

~~— 8. Notwithstanding any other law to the contrary, to maximize competition and to obtain the best value for the public, no part of a proposal other than the executive summary may be released or disclosed by the Department before the award and execution of the public private partnership and the conclusion of any specified period to protest or otherwise challenge the award, except pursuant to an administrative or judicial order requiring release or disclosure of any part of the proposal. (Deleted by amendment.)~~

Sec. 17. ~~1. A public private partnership awarded to an applicant who receives a preference in bidding described in subsection 5 of section 16 of this act must:~~

~~— (a) Include a provision in the public private partnership that substantially incorporates the requirements of paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this act; and~~

~~— (b) Provide that a failure to comply with any requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this act is a material breach of the public private partnership and entitles the Department to liquidated damages only as provided in subsections 5 and 6.~~

~~2. Any contract entered into between a private partner and a contractor engaged on a toll road project and between a contractor and any subcontractor engaged on a toll road project must:~~

~~— (a) Include a provision in the contract that substantially incorporates the requirements of paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this act; and~~

~~— (b) Provide that a failure to comply with any requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this act is a material breach of the contract.~~

~~3. A person or entity who believes that an applicant has obtained a preference in bidding as described in subsection 5 of section 16 of this act but has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this act may file a written objection with the Department. A written objection authorized pursuant to this subsection must set forth proof or substantiating evidence to support the belief of the person or entity that the applicant has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this act.~~

~~4. If the Department receives a written objection pursuant to subsection 3, the Department shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to that subsection. If the Department determines that the objection is not accompanied by the required proof or substantiating evidence, the Department shall dismiss the objection. If the Department determines that the objection is accompanied by the required proof or substantiating evidence or if the Department determines on its own initiative that proof or substantiating evidence of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this act exists, the Department shall determine whether the applicant has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this act and the Department may proceed to award the contract accordingly or, if the contract has already been awarded, seek the remedy authorized in subsection 5.~~

~~5. The Department may recover, by civil action against the party responsible for a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this act, liquidated damages as described in subsection 6 for a breach of a contract for the toll road project caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 5 of section 16 of this act. If the Department recovers liquidated damages pursuant to this subsection for a breach of a contract for the toll road project, the Department shall report to the State Contractors' Board the date of the breach, the name of each entity which breached the contract and the cost of the public-private partnership. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.~~

~~6. If an applicant submits the affidavit described in subsection 1, receives a preference in bidding described in subsection 5 of section 16 of this act and is awarded the public private partnership, the public private partnership, each contract between the applicant and a contractor or a subcontractor or supplier and each contract between a subcontractor and a subcontractor or supplier must provide that:~~

~~(a) If a party to the contract causes a material breach of the contract between the applicant and the Department as a result of a failure to comply with a requirement of subsection 5 of section 16 of this act, the party is liable to the Department for liquidated damages in the amount of 10 percent of the cost of the largest contract to which he or she is a party or \$50,000, whichever is less;~~

~~(b) The right to recover the amount determined pursuant to paragraph (a) by the Department pursuant to subsection 5 may be enforced by the Department directly against the party that causes the material breach; and~~

~~(c) No other party to the contract is liable to the Department for liquidated damages.}] (Deleted by amendment.)~~

~~Sec. 18. [1. To be eligible as a private partner in connection with a public private partnership, a private partner must:~~

~~(a) Obtain a performance bond, payment bond, letter of credit, parent guarantee or other security acceptable to the Department, or any combination thereof, which the Department determines is adequate to:~~

~~(1) Protect the interests of this State and its political subdivisions; and~~

~~(2) Ensure completion of the toll road project without this State or its political subdivisions being liable for any of the direct costs of the toll road project;~~

~~(b) Obtain insurance covering general liability and liability for errors and omissions, in amounts determined by the Department;~~

~~(c) Not have been found liable for breach of contract with respect to a previous project with the Department, other than a breach for legitimate cause during the 5 years immediately preceding the commencement of the solicitation of the public private partnership; and~~

~~(d) Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895 or 338.1475.~~

~~2. A private partner is not required to hold the licenses and certifications required to undertake the work for a toll road project as a condition of eligibility to be a private partner but must ensure that any work which requires a license or certification is performed by persons that possess the required licenses and certifications.}] (Deleted by amendment.)~~

~~Sec. 19. [Information obtained by or disclosed to the Department during the procurement or negotiation of a public private partnership may be kept confidential until the public private partnership is executed, except that the Department may exempt from release any proprietary information obtained by or disclosed to the Department during the procurement or negotiation.}] (Deleted by amendment.)~~

~~Sec. 20. [1. Except as otherwise provided in subsection 2, notwithstanding any other law to the contrary, a public private partnership may be for a term of not more than 40 years after the opening of the toll road project to the public and the commencement of its full operations and collection of revenue.~~

~~2. A public private partnership may be extended:~~

~~(a) As a result of an event in the nature of force majeure;~~

~~(b) As a means to compensate the private partner for events set forth in the public private partnership that entitle the private partner to compensation; or~~

~~(c) For additional terms upon the mutual agreement of the private partner and the Department.] (Deleted by amendment.)~~

~~Sec. 21. [1. A public private partnership entered into pursuant to sections 1 to 34, inclusive, of this act may include provisions that:~~

~~(a) Authorize the Department and the private partner to charge, collect, use, enforce and retain user fees, including, without limitation, provisions that:~~

~~(1) Specify the technology to be used in a toll road project;~~

~~(2) Establish circumstances under which the Department may receive the revenues or a share of the revenues from such user fees;~~

~~(3) State that the user fees may be collected directly by the Department, the private partner or by a third party engaged for that purpose;~~

~~(4) Prescribe a formula, indexation or mechanism for the adjustment of user fees during the term of the public private partnership;~~

~~(5) Allow a variety of strategies to be employed to manage traffic on a toll road project that the Department determines are appropriate based on the specific circumstances of the toll road project; and~~

~~(6) Govern the enforcement of user fees, including, without limitation, provisions for the use of cameras or other mechanisms to ensure that users have paid user fees which are due and provisions that allow the Department of Transportation and the private partner to request information from relevant databases, including, without limitation, databases of the Department of Motor Vehicles, pursuant to the provisions of NRS 481.063, for enforcement purposes. The Department of Transportation may impose a civil penalty of not more than \$10,000 per violation for misuse of the data contained in such databases, including, without limitation, negligence in securing the data properly. Any civil penalty collected pursuant to this subparagraph must be deposited in the State General Fund.~~

~~(b) Allow for payments to be made by the Department to the private partner, including, without limitation, periodic payments, construction payments, payments for attaining milestones, progress payments, payments based on availability or other performance based payments, payments relating to events for which the public private partnership requires payment of compensation and payments relating to or arising out of the termination of the public private partnership.~~

~~—(c) Allow the Department to accept payments of money from, and share revenues with, the private partner. The Department shall deposit such money in the State Highway Fund.~~

~~—(d) Address the manner in which the Department and the private partner will share management of the risks of a toll road project.~~

~~—(e) Specify the manner in which the Department and the private partner will share the costs of any development of a toll road project.~~

~~—(f) Allocate financial responsibility for any costs that exceed the amount specified in the public-private partnership.~~

~~—(g) Establish applicable liquidated or stipulated damages to be assessed for nonperformance by the private partner.~~

~~—(h) Establish performance measurements, as described in section 22 of this act, or incentives, or both.~~

~~—(i) Address the acquisition of rights of way and other property interests that may be required for a toll road project, including, without limitation, provisions that address the exercise of eminent domain by the Department in the manner authorized pursuant to NRS 277A.250 and chapter 37 of NRS.~~

~~—(j) Establish recordkeeping, accounting and auditing standards to be used for a toll road project.~~

~~—(k) Upon termination of the public-private partnership, address responsibility for repair, rehabilitation, reconstruction or renovations that are required for a toll road project to meet all applicable standards set forth in the public-private partnership upon reversion of the toll road project to the Department.~~

~~—(l) Provide for security and law enforcement.~~

~~—(m) Identify any specifications of the Department that must be satisfied, including, without limitation, provisions allowing the private partner to request and receive authorization to deviate from the specifications on making a showing satisfactory to the Department.~~

~~—(n) Specify remedies available and procedures for dispute resolution, including, without limitation, the right of the private partner to institute legal proceedings to obtain an enforceable judgment or award against the Department in the event of a default by the Department and procedures for the use of dispute review boards, mediation, facilitated negotiation, nonbinding and binding arbitration and other alternative dispute resolution procedures.~~

~~—2. A public-private partnership entered into pursuant to sections 1 to 34, inclusive, of this act must contain a provision by which the private partner expressly agrees to be barred from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the Department from developing or constructing a facility which was planned at the time the public-private partnership was executed and which may impact the revenue that the private partner derives from a toll road project developed under the public-private partnership. The public-private partnership may provide for reasonable compensation to the private partner for the adverse effect on revenue from a toll road project developed under the public-private partnership resulting from~~

~~the development or construction of another facility by the Department.]~~
(Deleted by amendment.)

~~Sec. 22. 1. If the Department enters into a public private partnership pursuant to sections 1 to 34, inclusive, of this act, the Department:~~

~~—(a) Shall adopt, establish or include in the public private partnership a schedule of user fees or a methodology for establishing the user fees that may be charged by the Department or a private partner for the use of a toll road project, which may include, without limitation, provisions for adjusting the user fees based on the types of motor vehicle, time of day, traffic conditions or other factors determined necessary by the Department or a private partner to implement, finance or improve the performance of a toll road project. A schedule of user fees or methodology for establishing user fees to be included in the public private partnership must be adopted or established by the Department at a public hearing held in compliance with chapter 241 of NRS.~~

~~—(b) Shall, consistent with the provisions of section 23 of this act, establish or provide in the public private partnership for the establishment of administrative fines, late charges and other penalties for any person who violates any regulation or rule governing the use of a toll road project or who fails to pay a user fee.~~

~~—(c) In addition to the exemptions provided in subsection 2, may establish or provide in the public private partnership for exemptions from the payment of a user fee.~~

~~—(d) Shall adopt a plan for measuring the performance of the private partner and, in the event of any unexcused failure by the private partner to meet such performance measurements, provide for the rights and remedies of the Department.~~

~~2. The following motor vehicles are exempt from any user fee established by the Department:~~

~~—(a) A vehicle owned or operated by this State or any of its political subdivisions.~~

~~—(b) A transit bus or vanpool vehicle owned or operated by an agency of the United States, to the extent that such vehicles are exempted pursuant to an agreement between the agency or political subdivision and the Department or a private partner.~~

~~—(c) An authorized emergency vehicle if the person operating it is:~~

~~—(1) Responding to an emergency and its emergency lights are in use; or~~

~~—(2) Enforcing traffic laws.~~

~~—(d) A vehicle used to provide maintenance of a toll road project.~~

~~—(e) A vehicle that is exempt pursuant to the terms of a public private partnership.~~

~~3. Not less frequently than once each calendar year, the Department shall review any fee schedule established pursuant to this section and any adjustments to the fee schedule made by the Department or a private partner to determine whether the user fees effectively manage travel times, speed and reliability with regard to a toll road project. The Department shall review and,~~

~~if applicable, make any necessary adjustments at a public hearing held in compliance with chapter 241 of NRS;~~

~~4. The Department or a private partner may use any method it determines appropriate to collect a user fee, including, without limitation, the issuance of invoices, prepayment requirements and the use of an electronic, video or automated collection system. An electronic, video or automated collection system may be used to verify payment or to charge the user fee to the:~~

~~—(a) Account of a person whose vehicle is equipped with a transponder approved by the Department or other automated payment technology approved by the Department;~~

~~—(b) Account of a person who otherwise registers to use a toll road project in accordance with the policies and procedures established by the Department or set forth in the public private partnership; or~~

~~—(c) Registered owner;~~

~~5. The name, address, other personal identifying information and trip data of a user is confidential, and the Department, a private partner, consultant or contractor or representative thereof shall not release, sell or distribute such information without the express written consent of the user, except that the Department or a private partner may release such information:~~

~~—(a) As is necessary to collect a user fee and enforce any penalty for a violation of sections 1 to 34, inclusive, of this act or any policies and procedures established pursuant thereto or set forth in the public private partnership; and~~

~~—(b) To a law enforcement agency pursuant to a subpoena;~~

~~6. The Department or a private partner may solicit and contract with any person to provide services relating to the collection of a user fee;~~

~~7. The Department shall establish a privacy policy regarding the collection and use of personal identifying information pursuant to this section. The policy must include, without limitation, provisions requiring that:~~

~~—(a) Except as otherwise provided in paragraph (b), any personal identifying information used to collect and enforce user fees be destroyed not later than 30 days after the person has paid the user fee and any administrative fines, late charges or other penalties and charges imposed;~~

~~—(b) Any personal identifying information collected for the establishment of an account for the use of an automated collection system be:~~

~~—(1) Stored longer than 30 days only if the information is required to perform account functions, including, without limitation, billing and other activities directly related to the use of the account; and~~

~~—(2) Destroyed within 30 days after receiving written notice that the person who established the account wishes to close the account; and~~

~~—(c) Each person establishing an account for use in an automated collection system be provided a copy, in a clear and conspicuous manner, of the privacy policy required by this subsection and all other applicable privacy laws.]~~

(Deleted by amendment.)

~~Sec. 23. [1. Except as otherwise provided in subsection 3, a registered owner who fails to pay a user fee is subject to an administrative fine for nonpayment and is liable to the Department or private partner for the payment of the user fee, the administrative fine and any additional charges or penalties prescribed by the Department or set forth in the public-private partnership.~~

~~2. If a driver or registered owner fails to pay a user fee, the Department or private partner shall provide notice of nonpayment to the registered owner. The notice must describe the claimed nonpayment and the amount due, including any additional charges, administrative fines or penalties, and explain that the registered owner must, within 20 days after receiving the notice, pay the full amount due or contest the claim in the manner described in the notice. A registered owner who does not pay the full amount due or contest the claim within 20 days after receiving the notice may not challenge the claim in any proceeding or action brought by the Department or the private partner.~~

~~3. A short term lessor of a motor vehicle that is the registered owner is not liable to the Department or a private partner for any failure to pay a user fee arising out of the use of a rented motor vehicle during any period in which the motor vehicle is not in the possession of the lessor if, within 45 days after receiving the written notice from the Department or private partner, the lessor provides to the Department or private partner the name, address, driver's license number and other identifying information of the person to whom the motor vehicle was rented at the time of the use of a toll road project. If the lessor provides such information, the person to whom the motor vehicle was rented at the time of the use of a toll road project is liable for the user fee or administrative fee, or both, and any late charges or other penalties or charges resulting from the failure to pay the user fee.~~

~~4. The Department or a private partner may use a photo monitoring, video, image capture or other automated or technology based enforcement and collections system to detect the failure of a motor vehicle to register payment of the required user fee, to detect the failure of the driver or registered owner to pay a user fee or to verify and assess the payment of a user fee. The data, including, without limitation, photographs, images, videotapes and other vehicle and owner information generated and obtained by the system, may be used to establish the nonpayment of the user fee and to enforce collection of the user fee and any administrative fines, late charges and other penalties or charges imposed pursuant to the public-private partnership. The Department or private partner shall not use the information for any other purpose.~~

~~5. If the registered owner fails to respond to the notice described in subsection 2, the Department of Transportation or private partner may file a notice of nonpayment with the Department of Motor Vehicles. The notice must include:~~

~~(a) The place, time and date of the use of the toll road project which, through nonpayment of user fees, administrative fees, late charges or other penalties or charges, constitutes a violation;~~

~~—(b) The number of the license plate and the make and model year of the motor vehicle; and~~

~~—(c) The total amount owed to the Department or private partner for the violation;~~

~~—6. Upon receipt of the notice described in subsection 5, the Department of Motor Vehicles shall place a hold on the renewal of the registration of the motor vehicle described in the notice pursuant to the provisions of NRS 482.2805.~~

~~—7. In addition to any administrative fine, late charge or other penalty or charge for nonpayment of a user fee established pursuant to the public-private partnership which is payable to the Department of Transportation or a private partner, the Department of Motor Vehicles may impose an additional administrative fee of not more than \$15 upon any person who applies for the renewal of the registration of a motor vehicle subject to a hold pursuant to this section.~~

~~—8. The Department of Motor Vehicles shall work cooperatively with the Department of Transportation and any private partner to establish a timely and efficient manner for providing the motor vehicle registration of the registered owner, pursuant to the provisions of NRS 481.063, to the Department of Transportation and any private partner for the purposes of collecting and enforcing any user fees and any administrative fines, late charges and other penalties imposed pursuant to sections 1 to 34, inclusive, of this act.~~ **(Deleted by amendment.)**

Sec. 24. ~~[1. All money that is received and is to be retained by the Department pursuant to a public-private partnership in connection with a toll road project that is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund and, except for costs of administration, must be used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways of this State. The money must first be used to defray the obligations of the Department under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of the toll road project.~~

~~—2. Any other money received by the Department pursuant to sections 1 to 34, inclusive, of this act or any policies or procedures established by the Department or set forth in the public-private partnership must be deposited in the State Highway Fund and accounted for separately. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. The money in the account may be used for:~~

~~—(a) The payment of the costs of planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for the toll road project;~~

~~—(b) The payment of the costs of administering the toll road project and enforcing the collection of user fees;~~

~~—(c) Satisfaction of any obligations of the Department pursuant to a public-private partnership; and~~

~~—(d) The costs of administration, construction, maintenance and repair of the public highways located in this State. (Deleted by amendment.)~~

Sec. 25. ~~1. A toll road project and any property improvement determined by the Department to be necessary or desirable therefor may, as determined by the Department, be financed:~~

~~—(a) By the private partner using its own funds or obtaining funds in any lawful manner for that entity;~~

~~—(b) By the issuance of revenue bonds or notes of the State which are payable from and secured by:~~

~~—(1) Revenues from the toll road project, including, without limitation, user fees and payments established, due and collected pursuant to sections 22 and 23 of this act, other than subsection 7 of section 23 of this act;~~

~~—(2) Payments from the Department to the private partner pursuant to a public-private partnership;~~

~~—(3) Payments from the private partner as described in section 24 of this act;~~

~~—(4) Guarantees or other forms of financial assistance from the private partner or any other person;~~

~~—(5) Any grants, donations or other sources of funding mentioned in paragraph (f), (g) or (h) of subsection 2 of section 14 of this act, if use of the money to pay and secure the payment of the principal of and interest on those bonds or notes is consistent with and not prohibited by the instrument, law or regulation under which the money is received;~~

~~—(6) Interest or other gain accruing on any of the money deposited in the State Highway Fund pursuant to section 24 of this act; and~~

~~—(7) Any combination thereof,~~

~~as described in the resolution authorizing the issuance of the bonds or notes. The bonds or notes may have a maturity of up to 40 years after the date of issuance. Any bonds or notes authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and shall never be a debt of the State under Section 3 of Article 9 of the Constitution of the State of Nevada.~~

~~—(c) By the issuance of revenue bonds or notes of the State, to finance a toll road project directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the Department and the private partner to secure the bonds or notes and provide for their payment. Any bonds or notes issued under this paragraph must be solely payable from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any payments made to the private partner by the Department pursuant to the public-private partnership. Any bonds or notes issued pursuant to this paragraph may have a maturity of up to 40 years from the date of issuance. Any bonds or notes authorized by this~~

~~paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of bonds or notes, and shall never be a debt of the State under Section 3 of Article 9 of the Constitution of the State of Nevada.~~

~~—(d) By the issuance of private activity bonds or notes of the State or other eligible issuer, to finance a toll road project directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the Department and the private partner for the purpose of securing the bonds or notes and providing for their payment. Any bonds or notes issued pursuant to this paragraph must be payable solely from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any payments made to the private partner by the Department pursuant to the public-private partnership. Any bonds or notes issued pursuant to this paragraph may have a maturity of up to 40 years from the date of issuance. Any bonds or notes authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and shall never be a debt of the State under Section 3 of Article 9 of the Constitution of the State of Nevada.~~

~~—(e) By any loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out a toll road project.~~

~~—(f) With any grant, donation, gift or other form of conveyance of land, money or other real or personal property or other thing of value made to the Department to carry out a toll road project.~~

~~—(g) With legally available money from any other source, including a source described in paragraph (f), (g) or (h) of subsection 2 of section 34 of this act, or from user fees.~~

~~—(h) By any combination of paragraphs (a) to (g), inclusive.~~

~~—2. If so determined by the Department, any bonds or notes issued as described in paragraph (b) of subsection 1 may also be payable from and secured by taxes which are credited to the State Highway Fund and which would not cause the bonds or notes to create a public debt under the provisions of Section 3 of Article 9 of the Constitution of the State of Nevada. In addition, the State may pledge those taxes to and use those taxes for the payment of any of its obligations under a public-private partnership.~~ **(Deleted by amendment.)**

Sec. 26. ~~1. The Department may acquire, condemn or hold real property and related appurtenances under fee title, lease, easement, dedication or license for a toll road project. The Department may grant to a private partner a lease, easement, operating agreement, license, permit or right of entry for such real property and related appurtenances, and such grant and use shall be deemed for all purposes:~~

- ~~—(a) A public use;~~
- ~~—(b) A public facility; and~~
- ~~—(c) A public highway.~~

~~2. The real property and related appurtenances, or the use thereof, that are granted by the Department to the private partner are exempt from all real property and ad valorem taxes to the full extent allowed under the Constitution of the State of Nevada.~~ **(Deleted by amendment.)**

Sec. 27. ~~[Notwithstanding any specific statute to the contrary, a private partner is exempt from any assessment on property:~~

- ~~1. Which the Department owns or acquires or in which the Department has a possessory interest;~~
- ~~2. Which the Department provides to the private partner pursuant to a public private partnership; and~~
- ~~3. On which a toll road project is located.~~ **(Deleted by amendment.)**

Sec. 28. ~~[1. A private partner who enters into a contract for construction work pursuant to a public private partnership shall:~~

- ~~—(a) Award contracts using competitive bidding in accordance with the provisions of chapter 338 of NRS, and solely for the purposes of those provisions regarding competitive bidding, a toll road project shall be deemed to be a public work and the private partner shall be deemed to be a public body awarding the contracts for the toll road project; and~~
- ~~—(b) Pay the prevailing wage required pursuant to NRS 338.020 to 338.090, inclusive, and solely for the purposes of those provisions, a toll road project shall be deemed to be a public work and the Department shall be deemed to be a party to the contract and to be the public body advertising for bids for the toll road project and awarding the construction contract for the toll road project.~~

~~2. Nothing in this section requires the Department to use competitive bidding in accordance with the provisions of chapter 338 of NRS to award a public private partnership to a private partner.~~ **(Deleted by amendment.)**

Sec. 29. ~~[1. In addition to complying with the provisions of section 28 of this act, a private partner who enters into a contract for construction work pursuant to a public private partnership shall:~~

- ~~—(a) Advertise for at least 7 calendar days for bids on each contract for the performance of any portion of the construction work for the public private partnership;~~
- ~~—(b) At least 2 business days before the first day of that advertisement, provide notice of that advertisement to the Department;~~
- ~~—(c) Make available to all prospective bidders on the contract a written set of plans and specifications for the pertinent work; and~~
- ~~—(d) Provide public notice of the name and address of each person who submits a bid on the contract.~~

~~2. If the Department receives a notice of an advertisement for bids pursuant to paragraph (b) of subsection 1, the Department:~~

- ~~—(a) Shall, upon such receipt, post notice of the advertisement on an Internet website maintained by the Department; and~~

~~—(b) May otherwise provide notice of the advertisement to local trade organizations and the general public.~~

~~—2. The Department shall ensure that the private partner complies with the provisions of subsection 1.} (Deleted by amendment.)~~

~~Sec. 30. {1. The Department may include authority in a public-private partnership or otherwise authorize a private partner to remove any encroachments or relocate any utility from the right of way of a toll road project. The Department may incorporate the costs of such removal or relocation into the public-private partnership.~~

~~—2. A utility may not be required to pay any costs related to removing or relocating any property of the utility pursuant to subsection 1.} (Deleted by amendment.)~~

~~Sec. 31. {To the extent practicable, the provisions of sections 1 to 34, inclusive, of this act are intended to supplement other statutory provisions governing the administration of highways in this State, and such other provisions must be given effect to the extent that those provisions do not conflict with the provisions of sections 1 to 34, inclusive, of this act. If there is a conflict between such other provisions and the provisions of sections 1 to 34, inclusive, of this act, the provisions of sections 1 to 34, inclusive, of this act control.} (Deleted by amendment.)~~

~~Sec. 32. {1. On or before February 1 of each year, the Department shall prepare a written report concerning any toll road project commenced pursuant to sections 1 to 34, inclusive, of this act. The report must include, without limitation:~~

~~—(a) The current status of all toll road projects;~~

~~—(b) The amount of user fees collected by the Department and any private partners;~~

~~—(c) The amount of money received by the Department in connection with each toll road project from sources other than user fees;~~

~~—(d) The amount paid by the Department under any public-private partnership;~~

~~—(e) An assessment of the compliance by a private partner with the performance measurements set forth in a public-private partnership pursuant to sections 22 and 23 of this act;~~

~~—(f) Such other information as the Department determines appropriate;~~

~~—2. On or before February 1 of each even-numbered year, the Department shall submit the report prepared pursuant to subsection 1 to the Legislative Commission. On or before February 1 of each odd-numbered year, the Department shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.} (Deleted by amendment.)~~

~~Sec. 33. {Upon completion of a toll road project, the Department shall conduct a cost-benefit analysis of the toll road project. The Department shall submit the analysis to the Director of the Legislative Counsel Bureau for~~

~~transmittal to the next regular session of the Legislature.} (Deleted by amendment.)~~

~~Sec. 34. 1. In addition to the requirements of section 32 of this act, the Department shall report on the status of any toll road project to the Legislative Commission and the Interim Finance Committee. The report must include, without limitation:~~

- ~~— (a) The current status of each toll road project.~~
- ~~— (b) The amount of user fees collected by the Department and any private partners.~~
- ~~— (c) The amount of money received by the Department in connection with each toll road project from sources other than user fees.~~
- ~~— (d) The amount paid by the Department under any public-private partnership.~~
- ~~— (e) Such other information as the Legislative Commission or the Interim Finance Committee determines appropriate.~~

~~2. The report required pursuant to subsection 1 must be submitted at least quarterly and at such other times as the Legislative Commission or the Interim Finance Committee may require.} (Deleted by amendment.)~~

Sec. 35. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 36 to 65, inclusive, of this act.

Sec. 36. As used in sections 36 to 65, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 37 to 45, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 37. "Authorized emergency vehicle" has the meaning ascribed to it in NRS 484A.020.

Sec. 38. "Concession" means any lease, ground lease, franchise, easement, permit, right of entry, operating agreement or other binding agreement transferring rights for the use or control, in whole or in part, of an eligible transportation facility by the Department to a private partner.

Sec. 39. 1. "Eligible transportation facility" means a facility, including an enhanced, improved, expanded, extended, upgraded or new facility, used or useful for the safe transport of people or goods via one or more modes of transport, whether involving highways, railways, airports, monorails, transit, bus systems, guided rapid transit, fixed guideways, ferries, vessels, intermodal or multimodal systems or any other mode of transport, as well as facilities, structures, parking facilities, rest areas, maintenance yards, rail yards or storage facilities, vehicles, rolling stock or other related equipment, items or property.

2. The term includes, without limitation, highways, roads, bridges, on-ramps, off-ramps, direct connectors to or from other highways or arterials, tunnels, connectors to an airport, pavement, shoulders, structures, culverts, curbs, toll gantries and systems, drains, rights-of-way, buildings, communication facilities, equipment appurtenances, lighting, signage, service centers, operations centers, rest areas, services, personal property

and works incidental to, related to or desirable for highway design, construction, improvement, financing, operation or maintenance.

Sec. 40. “Managed lanes” means a highway facility or a set of lanes in which operational and traffic management strategies, including, without limitation, access control, vehicle eligibility and pricing, are implemented and managed in response to changing conditions, traffic and usage and which may include the assessment of a user fee. The term includes, without limitation, express lanes.

Sec. 41. “Motor vehicle” has the meaning ascribed to it in NRS 484A.130.

Sec. 42. “Private partner” means a person with whom the Department enters into a public-private partnership.

Sec. 43. “Public-private partnership” means a contract entered into by the Department with a private partner under which the private partner:

1. Assists the Department in defining a potential project concerning an eligible transportation facility and negotiates terms for potentially carrying out the planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for, or any combination thereof, the eligible transportation facility, or any portion thereof; or

2. Assumes responsibility for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for, or any combination thereof, an eligible transportation facility, or any portion thereof.

Sec. 44. “Registered owner” means a person whose name appears in the records of the Department of Motor Vehicles as the person to whom a motor vehicle is registered.

Sec. 45. “User fee” means a fee, toll, fare or other similar charge, including, without limitation, any incidental, account maintenance, administrative, credit card or video tolling fee or charge, imposed on a person for his or her use of an eligible transportation facility by the Department or by a private partner pursuant to a public-private partnership.

Sec. 46. 1. The Department, subject to the approval of the Board, may enter into a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for, or any combination thereof, an eligible transportation facility.

2. A public-private partnership may include, without limitation:

(a) A predevelopment agreement leading to another implementing agreement for an eligible transportation facility as described in this subsection;

(b) A design-build agreement;

(c) A design-build agreement that includes the financing, maintenance or operation, or any combination thereof, of the eligible transportation facility;

(d) A concession, including, without limitation, a toll concession and an availability payment concession;

(e) A construction agreement that includes the financing, maintenance or operation, or any combination thereof, of the eligible transportation facility;

(f) An operations and maintenance agreement for an eligible transportation facility;

(g) Any other method or agreement for completion of the eligible transportation facility, or any combination thereof, that the Department determines will serve the public interest; or

(h) Any combination of paragraphs (a) to (g), inclusive.

3. Except as otherwise provided in subsection 4 and notwithstanding any other law to the contrary, a public-private partnership may be for a term of not more than 55 years after:

(a) The opening of the eligible transportation facility to the public and the commencement of its full operations and collection of revenue, if the eligible transportation facility charges user fees;

(b) The opening of the eligible transportation facility and the commencement of its full operations, if the eligible transportation facility is used by the public without user fees; or

(c) The commencement of the public-private partnership, if the eligible transportation facility involves a facility or service that is not generally open to or used by the public.

4. A public-private partnership may be extended:

(a) As a result of a force majeure event or any other matter outside of the reasonable control of the Department or the private partner;

(b) As a means to compensate the private partner for events set forth in the public-private partnership that entitle the private partner to additional time or compensation, or both; or

(c) For additional terms upon the mutual agreement of:

(1) The private partner; and

(2) The Department, as authorized by the Board.

5. An eligible transportation facility must:

(a) Be owned by the Department; and

(b) Remain a public use, a public facility or a public highway, or any combination thereof.

Sec. 47. The Department may do such things as it determines are necessary and appropriate to carry out a public-private partnership entered into pursuant to section 46 of this act, including, without limitation:

1. Retain legal, financial, technical and other consultants to assist the Department concerning the eligible transportation facility.

2. Apply for, accept and expend money from any lawful source, including, without limitation, any public or private funding, loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out the eligible transportation facility.

3. Accept from any source any grant, donation, gift or other form of conveyance of land, money, other real or personal property or other thing of value made to the Department to carry out the eligible transportation facility.

4. Enter into a bond indenture, loan agreement, interest rate swap or financing agreement, security agreement, pledge agreement, credit facility, trust agreement or other financial agreement in connection with the financing of the eligible transportation facility pursuant to sections 36 to 65, inclusive, of this act.

Sec. 48. 1. To enter into a public-private partnership with the Department pursuant to section 46 of this act, a person must:

(a) Obtain a performance bond and payment bond, letter of credit, parent company guarantee or other security acceptable to the Department, or any combination thereof, in amounts determined by the Department;

(b) Obtain insurance covering general liability and liability for errors and omissions in amounts determined by the Department;

(c) Not have been found liable for breach of contract with respect to a previous project with the Department, other than a breach for legitimate cause, during the 5 years immediately preceding the date of commencement of the solicitation of the public-private partnership; and

(d) Not be disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333.

2. A private partner is not required to hold the licenses and certifications required to undertake the work for the eligible transportation facility as a condition of eligibility to be a private partner but must ensure that any work which requires a license or certification is performed by a person that possesses the required license or certification.

3. Any private entity that wishes to enter into a public-private partnership pursuant to section 46 of this act must provide satisfactory evidence to the Board that the entity is in compliance with the requirements of title 7 of NRS.

Sec. 49. 1. A public-private partnership entered into pursuant to section 46 of this act must be awarded through one or more solicitations. The Department may solicit a public-private partnership through:

(a) A two-phase procurement involving a request for statements of qualifications and a request for proposals; or

(b) A one-phase procurement involving a request for proposals.

2. If a request for statements of qualifications is issued by the Department, the Department may select a certain number of persons who submitted a statement of qualifications to receive and respond to a request for proposals.

3. For any solicitation in which the Department issues a request for statements of qualifications, request for proposals or similar request, the Department may establish an evaluation process to obtain the best value for the Department. The Department may determine:

(a) The method of evaluation;

(b) The factors the Department will consider, including, without limitation, qualifications, experience, cost, price, financial plan, financial commitment, innovative financing and technology, technical approach and management approach; and

(c) The relative weight of those factors in the evaluation process.

4. In the request for statements of qualifications, request for proposals or other request, as applicable, the Department shall set forth the evaluation process, including the methodology, the factors that will be used and the relative weight of those factors.

5. Each request for proposals issued for an eligible transportation facility must require each person submitting a proposal to include with the proposal an executive summary. The executive summary must address the major elements of the proposal but must not include the financial terms of the proposal, the financing plan or other confidential or proprietary information or trade secrets that the person submitting the proposal intends to be exempt from disclosure.

6. The executive summary may be released to the public by the Department at any time.

7. After evaluation of the proposals submitted in response to a request for proposals, the Department may enter into negotiations with the applicant whose proposal appeared to have the best value to enter into a public-private partnership. If the Department is unable to negotiate a public-private partnership with that applicant upon such terms and conditions that the Department determines to be in the best interest of the public, the Department shall suspend or terminate negotiations with that applicant. The Department may then undertake negotiations with the next highest-ranked applicant in sequence until a public-private partnership is entered into or a determination is made by the Department to reject all applicants who submitted proposals.

8. After the award and execution of the public-private partnership, the Department shall make available to the applicants and the public the results of the evaluations of proposals and the final rankings of the applicants.

9. Notwithstanding any other law to the contrary, to maximize competition and to obtain the best value for the public, no part of a proposal other than the executive summary may be released or disclosed by the Department before the award and execution of the public-private partnership for the eligible transportation facility and the conclusion of any specified period to protest or otherwise challenge the award, except pursuant to an administrative or judicial order requiring release or disclosure of any part of the proposal.

Sec. 50. 1. The Department may reimburse a person who submitted a proposal but with whom the Department did not enter into a public-private partnership for a portion of the cost of preparing the proposal or best and final offer, or both, if the Department determines that the proposal:

(a) Was responsive to the request for proposals; and

(b) Met all the requirements set by the Department for the eligible transportation facility.

2. If the Department intends to make such a reimbursement, the Department shall set forth the terms, conditions and estimated amount of the reimbursement in the request for statements of qualifications or in the request for proposals, as applicable, for the eligible transportation facility.

3. In exchange for the reimbursement, the Department shall require the recipient to grant to the Department the nonexclusive right to use any work product contained in the proposal, including, without limitation, technologies, techniques, methods, processes and information contained in the project design. Such use by the Department is at the sole risk of the Department, and the recipient does not have any responsibility for such use.

Sec. 51. 1. Except as otherwise provided in this subsection, information obtained by or disclosed to the Department during the procurement or negotiation of a public-private partnership may be kept confidential until the public-private partnership is awarded and executed. The Department may exempt from release to the public any confidential or proprietary information obtained by or disclosed to the Department during the procurement or negotiation.

2. To make confidential and proprietary information exempt from disclosure pursuant to subsection 1, the person who submits a proposal or other response to a solicitation for an eligible transportation facility must:

(a) Invoke the request for exclusion upon submission of the information or other materials for which protection is sought;

(b) Identify the data or other materials for which protection is sought with conspicuous labeling;

(c) State the reasons why protection is necessary for each document for which protection is sought;

(d) Fully comply with any applicable state law with respect to information that the person contends should be exempt from disclosure; and

(e) Defend any action seeking release of records that the person submitting the proposal or response believes are protected from disclosure, and indemnify, defend and hold harmless the State, the Department, its agents and its employees from any judgments awarded against the State or the Department in favor of the party requesting the records, including any and all costs connected with that defense. Under no circumstances will the Department be responsible or liable to the person submitting the proposal or response or any other person for the disclosure of any such labeled materials, whether the disclosure is required by law or court order or occurs through inadvertence, mistake or negligence on the part of the Department or its officers, employees, contractors or consultants.

Sec. 52. 1. A public-private partnership entered into pursuant to section 46 of this act may include provisions that:

(a) Except as otherwise provided in subsection 3, authorize the Department or the private partner, or both, to charge, collect, use, enforce and retain user fees, including, without limitation, provisions that:

(1) Specify the technology to be used in or the technology standards that must be met in connection with the eligible transportation facility.

(2) Establish circumstances under which the Department may receive the revenues or a share of the revenues from such user fees.

(3) State that the user fees may be collected directly by the Department, the private partner or by a third party engaged for that purpose.

(4) Prescribe a formula, indexation or mechanism for the adjustment of user fees during the term of the public-private partnership.

(5) Allow a variety of strategies to be employed to manage traffic on the eligible transportation facility, including, without limitation:

(I) High-occupancy vehicle lanes where single- or low-occupancy vehicles may use higher-occupancy vehicle lanes by paying a user fee.

(II) Managed lanes or facilities in which the user fees may vary during the course of the day or week or according to the levels of congestion that are anticipated or experienced.

(III) Any combination of, or variation on, the strategies set forth in sub-subparagraphs (I) and (II), or any other strategy that the Department determines is appropriate based on the specific circumstances of the eligible transportation facility.

(6) Govern the enforcement of user fees, including, without limitation, provisions for the use of cameras or other mechanisms to ensure that users have paid user fees which are due and provisions that allow the Department of Transportation and the private partner access to relevant databases, including, without limitation, those of the Department of Motor Vehicles, for enforcement purposes. The Department of Transportation may impose a civil penalty of not more than \$10,000 per violation for misuse of the data contained in such databases by the private partner, including, without limitation, negligence in securing the data properly. Any civil penalty collected pursuant to this subparagraph must be deposited in the State General Fund.

(b) Allow for payments to be made by this State to the private partner, including, without limitation, periodic payments, construction payments, milestone payments, progress payments, payments based on availability or any other performance-based payments, payments relating to compensation events specified in the public-private partnership and payments relating to or arising out of the termination of the public-private partnership.

(c) Allow the Department to accept payments of money from, and share revenues with, the private partner. The Department shall deposit such money in the State Highway Fund.

(d) Address the manner in which the Department and the private partner will share management of the risks of the eligible transportation facility.

(e) Specify the manner in which the Department and the private partner will share the costs of any development of the eligible transportation facility.

(f) Allocate financial responsibility for any costs that exceed the amount specified in the public-private partnership.

(g) Establish applicable liquidated or stipulated damages to be assessed for nonperformance by the private partner.

(h) Establish performance criteria or incentives, or both.

(i) Address the acquisition of rights-of-way and other property interests that may be required for the eligible transportation facility, including, without limitation, provisions that address the exercise of eminent domain by the Department in the manner authorized pursuant to this chapter and chapter 37 of NRS.

(j) Establish recordkeeping, accounting and auditing standards to be used for the project.

(k) Upon termination of the public-private partnership, address responsibility for repair, rehabilitation, reconstruction or renovations that are required for an eligible transportation facility to meet all applicable standards set forth in the public-private partnership upon reversion of the eligible transportation facility to this State.

(l) Provide for security and law enforcement.

(m) Identify any specifications of the Department that must be satisfied, including, without limitation, provisions allowing the private partner to request and receive authorization to deviate from the specifications on making a showing satisfactory to the Department.

(n) Specify remedies available and procedures for dispute resolution, including, without limitation, the right of the private partner to institute legal proceedings to obtain an enforceable judgment or award against the Department in the event of a default by the Department and procedures for use of dispute review boards, mediation, facilitated negotiation, nonbinding and binding arbitration and other alternative dispute resolution procedures.

2. A public-private partnership must contain a provision by which the private partner expressly agrees to be barred from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder the Department from developing or constructing any other facility which was planned at the time the public-private partnership was executed and which may impact the revenue that the private partner derives from the eligible transportation facility developed under the public-private partnership. The public-private partnership may provide for reasonable compensation to the private partner for the adverse effect on revenue from the eligible transportation facility developed under the public-private partnership resulting from the development or construction of another facility by the Department.

3. A public-private partnership must not include a provision that authorizes the Department and the private partner to charge, collect, use, enforce and retain user fees on any eligible transportation facility which is

a highway or portion of a highway in existence on July 1, 2015, except that user fees may be charged, collected, used, enforced and retained where:

(a) Express lanes or high-occupancy vehicle lanes are converted to high-occupancy toll lanes, if the conversion is permissible under federal law;

(b) New capacity or lanes are constructed or added to the existing highway;

(c) The existing highway is reconstructed or rehabilitated, if the imposition of user fees is permissible under federal law; or

(d) It is otherwise permissible under federal law.

4. In connection with an eligible transportation facility that charges user fees, the Department is also entitled to charge, collect, use, enforce and retain user fees and exercise, for the benefit of the Department, the power to:

(a) Manage traffic on the eligible transportation facility in the manner described in subparagraph (5) of paragraph (a) of subsection 1; and

(b) Govern the enforcement of user fees in the manner described in subparagraph (6) of paragraph (a) of subsection 1.

Sec. 53. 1. If the Department enters into a public-private partnership pursuant to section 46 of this act and the eligible transportation facility involves user fees, the Board:

(a) Shall establish a schedule or methodology for the charging of user fees by the Department or the private partner for the use of the eligible transportation facility. Such a schedule or methodology may include, without limitation, provisions for adjusting the user fees based on the type of motor vehicle, time of day, traffic conditions or other factors determined necessary by the Department or the private partner to implement, finance or improve the performance of the eligible transportation facility;

(b) Shall, consistent with the provisions of section 56 of this act, establish the schedule of administrative fines, late charges and any other penalties or charges which may be imposed against any person who violates any regulation or rule governing the use of the eligible transportation facility or who fails to pay a user fee; and

(c) In addition to the exemptions provided in subsection 2, may provide for exemptions from the payment of a user fee and may authorize the private partner to provide for such exemptions.

2. The following motor vehicles are exempt from any user fee established by the Board:

(a) A preregistered vehicle transporting a number of occupants that is specified in the public-private partnership or otherwise specified by the Board;

(b) A transit bus or vanpool vehicle owned or operated by an agency or political subdivision of this State or the United States, to the extent that such vehicles are exempted pursuant to an agreement between the agency or political subdivision and the Department or the private partner;

(c) An authorized emergency vehicle if:

(1) It is responding to an emergency and its emergency lights are in use; or

(2) It is enforcing traffic laws; and

(d) A vehicle that is exempt pursuant to the terms of the public-private partnership.

3. The Board may review annually any fee schedule or methodology established pursuant to this section and any adjustments to the user fees made by the Department or the private partner to determine whether the user fees effectively manage travel times, speed and reliability with regard to the eligible transportation facility. Such a review does not entitle the Department to modify the terms of a binding public-private partnership or bond indenture.

Sec. 54. 1. The Department or private partner may use any method that it determines appropriate to charge, assess and collect a user fee, including, without limitation, the issuance of invoices, collection by means of toll booths, prepayment requirements and the use of an electronic, video or automated collection system. An electronic, video or automated collection system may be used to verify payment or to charge or assess the user fee to:

(a) The account of a person whose vehicle is equipped with a transponder or other automated payment technology approved by the Department;

(b) The account of a person who otherwise registers to use the collection system for the eligible transportation facility; or

(c) The registered owner of a motor vehicle.

2. Except as otherwise provided in this subsection, the name, address and any other personal identifying information and any trip data of a user of an eligible transportation facility is confidential and the Department, a private partner, consultant, contractor or representative thereof shall not release, sell or distribute such information without the express written consent of the user. The Department and the private partner may use and release such information:

(a) As is necessary for the purpose of assessing, charging and collecting a user fee and enforcing any administrative fines, late charges or other penalties and charges imposed pursuant to the public-private partnership; and

(b) To a law enforcement agency pursuant to a subpoena.

3. The Department or the private partner may solicit and contract with a person to provide services relating to the enforcement and collection of a user fee and any administrative fines, late charges or other penalties and charges imposed pursuant to the public-private partnership.

4. The Department or the private partner may:

(a) Accept cash payment of user fees at each toll booth or similar fixed collection facility for user fees;

(b) Allow a person to establish and deposit money into an account for use in an automated collection system; or

(c) Allow a person to establish an account that is not linked to a specific vehicle for use in an automated collection system.

5. The Department shall adopt regulations establishing a privacy policy regarding the collection and use of personal identifying information pursuant to this section. The regulations must include, without limitation, provisions requiring that:

(a) Any personal identifying information used to collect and enforce user fees be destroyed not later than 30 days after the person has paid the user fee, administrative fines, late fees or other penalties and charges imposed;

(b) Any personal identifying information collected for the establishment of an account for the use of an automated collection system be:

(1) Stored longer than 30 days only if the information is required to perform account functions, including, without limitation, billing and other activities directly related to the use of the account; and

(2) Destroyed within 30 days after receiving written notice that the person who established the account wants to close the account and has paid all outstanding user fees, administrative fines, late fees or any other penalties and charges imposed; and

(c) Each person establishing an account for use in an automated collection system be provided a copy, in a clear and conspicuous manner, of the privacy policy required by this section and all other applicable privacy laws, including, without limitation, sections 52 and 55 of this act.

Sec. 55. 1. The Department or a private partner may use a photo-monitoring, video, image capture or other automated or technology-based system to detect the failure of a driver or registered owner of a motor vehicle to pay a user fee or to verify the payment of a user fee.

2. The data, including, without limitation, photographs, images, videotapes and other information about the motor vehicle and its owner, generated and obtained by a system described in subsection 1 may only be used by the Department or the private partner to establish the nonpayment of a user fee and to enforce collection of a user fee and any administrative fines, late charges and other penalties or charges imposed pursuant to the public-private partnership and for no other purpose.

Sec. 56. 1. Except as otherwise provided in subsection 3, the registered owner of a motor vehicle who fails to pay a user fee is subject to an administrative fine for nonpayment and is liable to the Department or a private partner for the payment of the user fee, administrative fine, late charge and any other penalties or charges established by the Board or pursuant to the public-private partnership.

2. If a driver or registered owner fails to pay a user fee, the Department or the private partner shall provide notice of the nonpayment to the registered owner. The notice must describe the claimed nonpayment and the amount due, including, without limitation, any administrative fines, late charges or other penalties or charges, and explain that the registered owner must, within 20 days after receiving the notice, pay the full amount due or

contest the claim in the manner described in the notice. A registered owner who does not pay the full amount due or contest the claim within 20 days after receiving the notice cannot challenge the claim in any proceeding or action brought by the Department or the private partner.

3. A long-term or short-term lessor of a motor vehicle that is the registered owner of a vehicle is not liable to the Department or the private partner for any failure to pay a user fee arising out of the use of a leased or rented motor vehicle during any period that the motor vehicle is not in the possession of the lessor if, within 20 days after receiving the written notice from the Department or the private partner, the lessor provides to the Department or the private partner the name, address, driver's license number and any other identifying information of the person to whom the motor vehicle was rented or leased at the time of the use of the violation. If the lessor provides such information, the person to whom the motor vehicle was rented or leased at the time of the use of the eligible transportation facility is liable for the user fee or administrative fee, or both, and any late charges or other penalties or charges resulting from the person's failure to pay the user fee.

Sec. 57. 1. If a registered owner of a motor vehicle fails to respond to the notice of nonpayment provided pursuant to section 56 of this act, the Department of Transportation or a private partner may file a notice with the Department of Motor Vehicles. The notice must include:

(a) The place, time and date of the use of the eligible transportation facility;

(b) The license plate number and, to the extent known, the make and model year of the motor vehicle; and

(c) The total amount owed to the Department of Transportation or the private partner, including, without limitation, any administrative fines, late charges or other penalties and charges resulting from the person's failure to pay the user fee.

2. Upon receipt of the notice described in subsection 1, the Department of Motor Vehicles shall place a hold on the renewal of the registration of the motor vehicle described in the notice. The Department of Motor Vehicles shall not renew the registration of the motor vehicle unless the registered owner:

(a) Pays to the Department of Motor Vehicles the total amount owed to the Department of Transportation or the private partner, which amount the Department of Motor Vehicles shall forward, as directed by the Department of Transportation, to the Department of Transportation or the private partner, along with an accounting indicating the amount paid, from whom, for which motor vehicle and the corresponding license plate number of the motor vehicle; or

(b) Presents proof to the Department of Motor Vehicles of payment or satisfaction issued by the Department of Transportation or the private partner.

3. In addition to any administrative fine, late charge or other penalty or charge for nonpayment of a user fee established pursuant to a public-private partnership, the Department of Motor Vehicles may impose an additional administrative fee of not more than \$15 upon any person who applies for the renewal of the registration of a motor vehicle subject to a hold placed on the renewal pursuant to this section.

4. In addition to any other remedy provided by this section, the Department of Transportation or the private partner may recover in a civil action any user fee, administrative fine, late charge or other penalty or charge authorized pursuant to section 56 of this act, as well as the costs of collection and enforcement.

Sec. 58. 1. The Department of Motor Vehicles shall work cooperatively with the Department of Transportation and any private partner to establish a timely and efficient manner for providing information concerning motor vehicles, including, without limitation, the name, address and driver's license number of the registered owner and the registration number of the vehicle, to the Department of Transportation and the private partner for the purpose of collecting and enforcing user fees and any administration fines, late charges and other penalties and charges imposed pursuant to sections 56 and 57 of this act. To the extent practicable, such information must be transmitted electronically.

2. The Department of Motor Vehicles shall work cooperatively with the departments of motor vehicles and similar agencies of other jurisdictions and states to:

(a) Assist the Department of Transportation and the private partner with the collection and enforcement of user fees charged against a motor vehicle operated on the eligible transportation facility by a person from such other jurisdiction or state; and

(b) Assist such other departments of motor vehicles and similar agencies with the collection and enforcement of user fees charged against a motor vehicle operated on the toll facilities of such other jurisdiction or state by a motor vehicle registered in this State.

↪ The cooperation must include providing information concerning motor vehicles, including, without limitation, the name, address and driver's license number of the registered owner and the registration number of the vehicle, to such departments of motor vehicles and similar agencies of other jurisdictions and states and forwarding such information received from such other departments of motor vehicles and similar agencies of other jurisdictions and states to the Department of Transportation or the private partner.

Sec. 59. 1. All money which is received and is to be retained by the Department pursuant to a public-private partnership and which is derived from the imposition of any charge with respect to the operation of any motor vehicle upon any public highway in this State must be deposited in the State Highway Fund, accounted for separately and, except for costs of

administration, be used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways of this State. The money must first be used to defray the obligations for which the Department is responsible under the public-private partnership, including, without limitation, the costs of administration, design, construction, operation, maintenance, financing and repair of the eligible transportation facility from which the money is derived.

2. Any other money received and to be retained by the Department pursuant to sections 36 to 65, inclusive, of this act or pursuant to any policies or procedures established by the Department or set forth in the public-private partnership must be deposited in the State Highway Fund and accounted for separately. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. The money in the account may be used for:

(a) The payment of the costs of planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for, or any combination thereof, the eligible transportation facility;

(b) The payment of the costs of administering the eligible transportation facility and enforcing the collection and enforcement of tolls;

(c) Satisfaction of any obligations of the Department pursuant to a public-private partnership; and

(d) The costs of administration, construction, maintenance and repair of the public highways located in the county or counties from which the money was obtained.

Sec. 60. 1. An eligible transportation facility and any improvement to property in connection with an eligible transportation facility determined by the Department to be necessary or desirable therefor may, as determined by the Department, be financed:

(a) By the private partner using equity, debt, bonds or any other financing or money, or any combination thereof, for the eligible transportation facility.

(b) By the issuance of revenue bonds or notes of the State which are payable from and secured by:

(1) Revenues from the eligible transportation facility, including, without limitation, user fees and payments established, due and collected pursuant to sections 56 and 57 of this act, other than subsection 3 of section 57 of this act;

(2) Payments from the Department to the private partner pursuant to a public-private partnership, including any availability payments;

(3) Payments from the private partner as described in section 52 of this act;

(4) Guarantees or any other forms of financial assistance from the private partner or any other person;

(5) Any grants, donations or other sources of money mentioned in subsection 2 or 3 of section 47 of this act, if use of the money for the purpose of paying and securing the payment of the principal of and interest on those

bonds or notes is consistent with and not prohibited by the instrument, law or regulation under which the money is received;

(6) Interest or other gain accruing on any of the money deposited in the State Highway Fund pursuant to section 59 of this act;

(7) Any other funds and revenues of the Department that are eligible for such use; or

(8) Any combination thereof,

↪ as described in the resolution authorizing the issuance of the bonds or notes. The bonds or notes must be authorized and issued under the procedure described in NRS 408.273, but the bonds or notes must be secured as provided in this section and may have a maturity of up to 40 years after the date of issuance. Any bonds or notes authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and do not create a debt of the State for the purposes of Section 3 of Article 9 of the Nevada Constitution.

(c) By the issuance of revenue bonds or notes of the State, to finance the eligible transportation facility directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the State and the private partner for the purpose of securing the bonds or notes and providing for their payment. Any bonds or notes issued pursuant to this paragraph must be payable solely from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any payments made to the private partner by the Department pursuant to the public-private partnership. Any bonds or notes issued pursuant to this paragraph must be authorized and issued under the procedure described in NRS 408.273, but the bonds or notes must be secured as provided in this paragraph and may have a maturity of up to 40 years from the date of issuance. Any bonds or notes as authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and do not create a debt of the State for the purposes of Section 3 of Article 9 of the Nevada Constitution.

(d) By the issuance of private activity bonds or notes of the State or any other eligible issuer, to finance the eligible transportation facility directly or by making a loan to the private partner, pursuant to a financing agreement entered into between the State and the private partner for the purpose of securing the bonds or notes and providing for their payment. Any bonds or notes issued pursuant to this paragraph must be payable solely from and secured by payments made by and property of and other security provided by the private partner, including, without limitation, any availability payments or other payments made to the private partner by the Department pursuant to the public-private partnership. Any bonds or notes issued pursuant to this

paragraph must be authorized and issued under the procedure described in NRS 408.273, but the bonds or notes must be secured as provided in this paragraph and may have a maturity of up to 40 years from the date of issuance. Any bonds or notes as authorized by this paragraph are special, limited obligations of the State payable solely from the revenues specifically pledged to the payment of those obligations, as specified in the resolution for the issuance of the bonds or notes, and do not create a debt of the State for the purposes of Section 3 of Article 9 of the Nevada Constitution.

(e) By any loan, grant, line of credit, loan guarantee, credit instrument, private activity bond allocation, credit assistance from the Federal Government or other type of assistance that is available to carry out the eligible transportation facility.

(f) With any grant, donation, gift or other form of conveyance of land, money or other real or personal property or other thing of value made to the Department to carry out the eligible transportation facility.

(g) With available money from any other source, including a source described in subsections 2 and 3 of section 47 of this act or from user fees.

(h) By any combination of paragraphs (a) to (g), inclusive.

2. If so determined by the Department, any bonds or notes issued as described in paragraph (b) of subsection 1 may also be payable from and secured by taxes which are credited to the State Highway Fund and which would not cause the bonds or notes to create a public debt under the provisions of Section 3 of Article 9 of the Nevada Constitution. In addition, the Department may pledge those taxes to and use those taxes for the payment of any of its obligations under a public-private partnership.

Sec. 61. The Department may acquire, condemn or hold real property and related appurtenances under fee title, lease, easement, dedication or license for an eligible transportation facility or in connection with a public-private partnership in any manner in which the Department is authorized by law.

Sec. 62. 1. The Department may grant to a private partner in connection with a public-private partnership a lease, easement, operating agreement, license, permit or right of entry for such real property and related appurtenances. Such grant and use shall be deemed for all purposes a public use, a public facility or a public highway, or any combination thereof.

2. The Department may include authority in a public-private partnership or otherwise authorize a private partner to remove any encroachments or relocate any utility from the right-of-way of an eligible transportation facility.

3. The use of the real property and related appurtenances granted by the Department to the private partner pursuant to subsection 1 is exempt from all real property and ad valorem taxes pursuant to NRS 361.157.

Sec. 63. 1. The Department may adopt regulations to carry out the provisions of sections 36 to 65, inclusive, of this act.

2. Any public-private partnership entered into pursuant to sections 36 to 65, inclusive, of this act must include a provision which states that the regulations adopted by the Department pursuant to subsection 1 and the provisions of sections 36 to 65, inclusive, of this act, as of the date on which the Department entered into the public-private partnership, shall be deemed incorporated as terms of the public-private partnership.

Sec. 64. If the Department enters into a public-private partnership pursuant to section 46 of this act:

1. The Department shall report annually to the Board on the status of the eligible transportation facility.

2. On or before February 1 of each year, the Board shall prepare a written report concerning the eligible transportation facility. The report must include, without limitation:

(a) The current status of the eligible transportation facility.

(b) If the eligible transportation facility involves user fees, the amount of user fees collected by the Department and the private partner.

(c) The amount of money received by the Department in connection with the eligible transportation facility from sources other than user fees.

(d) The amount paid by the Department under a public-private partnership.

(e) Such other information as the Board determines appropriate.

3. On or before February 1 of each even-numbered year, the Board shall submit the report prepared pursuant to subsection 2 to the Legislative Commission. On or before February 1 of each odd-numbered year, the Board shall submit the report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 65. To the extent practicable, the provisions of sections 36 to 65, inclusive, of this act are intended to supplement other statutory provisions governing the administration of highways in this State and such other provisions must be given effect to the extent that those provisions do not conflict with the provisions of sections 36 to 65, inclusive, of this act. If there is a conflict between such other provisions and the provisions of sections 36 to 65, inclusive, of this act, the provisions of sections 36 to 65, inclusive, of this act control.

Sec. 66. NRS 408.317 is hereby amended to read as follows:

408.317 1. Except as otherwise provided in NRS 408.3875 to 408.3887, inclusive, and sections 36 to 65, inclusive, of this act, all work of construction, reconstruction, improvement and maintenance of highways as provided under the provisions of this chapter is under the supervision and direction of the Director and must be performed in accordance with the plans, specifications and contracts prepared by the Director.

2. All maintenance and repair of highways when performed by the Department must be paid out of the State Highway Fund.

Sec. 67. NRS 408.327 is hereby amended to read as follows:

408.327 Except as otherwise provided in NRS 408.3875 to 408.3887, inclusive ~~408.327~~, **and sections 36 to 65, inclusive, of this act:**

1. Whenever the provisions of NRS 408.323 do not apply, the Director shall advertise for bids for such work according to the plans and specifications prepared by the Director.

2. The advertisement must state the place where the bidders may obtain or inspect the plans and specifications and the time and place for opening the plans and specifications.

3. Publication of the advertisement must be made at least once a week for 2 consecutive weeks for a total of at least two publications in a newspaper of general circulation in the county in which the major portion of the proposed improvement or construction is to be made, and the advertisement must also be published at least once a week for 2 consecutive weeks for a total of at least two publications in one or more daily papers of general circulation throughout the State. The first publication of the advertisement in the daily newspapers having general circulation throughout the State must be made not less than 15 days before the time set for opening bids.

Sec. 68. NRS 408.333 is hereby amended to read as follows:

408.333 Except as otherwise provided in NRS 408.367 or 408.3875 to 408.3887, inclusive ~~408.333~~, **and sections 36 to 65, inclusive, of this act:**

1. Before furnishing any person proposing to bid on any advertised work with the plans and specifications for such work, the Director shall require from the person a statement, verified under oath, in the form of answers to questions contained in a standard form of questionnaire and financial statement, which must include a complete statement of the person's financial ability and experience in performing public work and any other comparable experience.

2. Such statements must be filed with the Director in ample time to permit the Department to verify the information contained therein in advance of furnishing proposal forms, plans and specifications to any person proposing to bid on the advertised public work, in accordance with the regulations of the Department.

3. Whenever the Director is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement, the Director may refuse to furnish the person with plans and specifications and the official proposal forms on the advertised project. If the Director determines that the person has, within the preceding year, materially breached a contract for a public work for which the cost exceeds \$25,000,000, the Director shall refuse to furnish the person with plans and specifications and the official proposal forms on the advertised project. Any bid of any person to whom plans and specifications and the official proposal forms have not been issued in accordance with this section must be disregarded, and the certified check, cash or undertaking of such a bidder returned forthwith.

4. Any person who is disqualified by the Director, in accordance with the provisions of this section, may request, in writing, a hearing before the Director and present again the person's check, cash or undertaking and such further

evidence with respect to the person's financial responsibility, organization, plant and equipment, or experience, as might tend to justify, in his or her opinion, issuance to him or her of the plans and specifications for the work.

5. Such a person may appeal the decision of the Director to the Board no later than 5 days before the opening of the bids on the project. If the appeal is sustained by the Board, the person must be granted the rights and privileges of all other bidders.

Sec. 69. NRS 408.337 is hereby amended to read as follows:

408.337 Except as otherwise provided in NRS 408.3875 to 408.3887, inclusive ~~to~~, **and sections 36 to 65, inclusive, of this act:**

1. All bids must be accompanied by an undertaking executed by a corporate surety authorized to do business in the State, or by cash or a certified check in an amount equal to at least 5 percent of the amount bid. Such undertaking, cash or check furnished to accompany a bid submitted on-line pursuant to NRS 408.343 must be furnished in accordance with the procedures set forth by the Director.

2. If the successful bidder fails to execute the contract in accordance with his or her bid and give any bond required by law and the contract and bond are not postmarked or delivered to the Department within 20 days after award of the contract, the undertaking, cash or certified check is forfeited and the proceeds must be paid into the State Highway Fund.

3. The failure of the successful bidder to furnish any bond required of the bidder by law within the time fixed for his or her execution of the contract constitutes a failure to execute the contract.

4. If the Director deems it is for the best interests of the State, the Director may, on refusal or failure of the successful bidder to execute the contract, award it to the second lowest responsible bidder. If the second lowest responsible bidder fails or refuses to execute the contract, the Director may likewise award it to the third lowest responsible bidder. On the failure or refusal to execute the contract of the second or third lowest bidder to whom a contract is so awarded, their bidder's security is likewise forfeited to the State.

5. The bidder's security of the second and third lowest responsible bidders may be withheld by the Department until the contract has been finally executed and the bond given as required under the provisions of the contract, at which time the security must be returned. The bidder's security submitted by all other unsuccessful bidders must be returned to them within 10 days after the contract is awarded.

Sec. 70. NRS 408.343 is hereby amended to read as follows:

408.343 1. Except as otherwise provided in NRS 408.3875 to 408.3887, inclusive ~~to~~, **and sections 36 to 65, inclusive, of this act:**

(a) All bids must be submitted:

(1) Under sealed cover and received at the address in Nevada stated in the advertisement for bids and must be opened publicly and read at the time stated in the advertisement; or

(2) Pursuant to the process of on-line bidding established by the Director.

(b) No bids may be received after the time stated in the advertisement even though bids are not opened exactly at the time stated in the advertisement. No bid, whether submitted in accordance with subparagraph (1) or (2) of paragraph (a), may be opened before that time.

(c) Any bid may be withdrawn by request at any time before the time stated in the advertisement. The withdrawal must be filed with the Director and executed by the bidder or the bidder's duly authorized representative. The withdrawal may be filed electronically. The withdrawal of a bid does not prejudice the right of the bidder to file a new bid before the time stated in the advertisement.

(d) The Department may reject any bid or all bids if, in the opinion of the Department, the bids are unbalanced, incomplete, contain irregularities of any kind or for any good cause.

(e) Until the final award of the contract, the Department may reject or accept any bids and may waive technical errors contained in the bids, as may be deemed best for the interests of the State.

(f) In awarding a contract, the Department shall make the award to the lowest responsible bidder who has qualified and submitted his or her bid in accordance with the provisions of this chapter.

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

3. As used in this section, "on-line bidding" means a process:

(a) That is established by the Director; and

(b) By which bidders submit proposals or bids for contracts on a secure website on the Internet or its successor, if any, which is established and maintained by the Department for that purpose.

Sec. 71. NRS 408.357 is hereby amended to read as follows:

408.357 1. Except as otherwise provided in NRS 408.354, **and sections 36 to 65, inclusive, of this act,** every contract must provide for the filing and furnishing of one or more bonds by the ~~successful bidder,~~ **person to whom the contract is awarded,** with corporate sureties approved by the Department and authorized to do business in the State, in a sum equal to the full or total amount of the contract awarded. The bond or bonds must be performance bonds or labor and material bonds, or both.

2. The performance bonds must:

(a) Guarantee the faithful performance of the contract in accordance with the plans, specifications and terms of the contract.

(b) Be maintained for 1 year after the date of completion of the contract.

3. The labor and material bonds must:

(a) Secure payment of state and local taxes relating to the contract, premiums under the Nevada Industrial Insurance Act, contributions under the Unemployment Compensation Law, and payment of claims for labor, materials, provisions, implements, machinery, means of transportation or supplies furnished upon or used for the performance of the contract; and

(b) Provide that if the contractor or his or her subcontractors, or assigns, fail to pay for such taxes, premiums, contributions, labor and materials required of, and used or consumed by, the contractor or his or her subcontractors, the surety shall make the required payment in an amount not exceeding the total sum specified in the bond together with interest at a rate of 8 percent per annum.

➔ All such bonds must be otherwise conditioned as required by law or the Department.

4. No person bidding for work or submitting proposals under the provisions of this chapter may be accepted as surety on any bond.

5. Whenever the Department has cause to believe that the sureties or any of them have become insufficient, it may demand in writing of the contractor such further bonds or additional sureties, in a total sum not exceeding that originally required, as are necessary, considering the extent of the work remaining to be done. Thereafter no payment may be made upon the contract to the contractor or any assignee of the contractor until the further bonds or additional sureties have been furnished.

6. The Department in every contract may require the furnishing of proof by the successful bidder of public liability and insurance coverage for damage to property.

Sec. 72. NRS 408.5471 is hereby amended to read as follows:

408.5471 As used in NRS 408.5471 to 408.549, inclusive, unless the context otherwise requires, "transportation facility" ~~means a road, railroad, bridge, tunnel, overpass, airport, mass transit facility, parking facility for vehicles or similar commercial facility used for the support of or the transportation of persons or goods, including, without limitation, any other property that is needed to operate the facility. The term does not include a toll bridge or toll road.~~ **has the meaning ascribed to "eligible transportation facility" in section 39 of this act.**

Sec. 73. NRS 408.5473 is hereby amended to read as follows:

408.5473 ~~The~~ **In addition to the provisions of sections 36 to 65, inclusive, of this act, the** Department may authorize a person to develop, construct, improve, maintain or operate, or any combination thereof, a transportation facility pursuant to NRS 408.5475 or 408.548.

Sec. 74. NRS 408.5485 is hereby amended to read as follows:

408.5485 **1.** The Department may contract with a person whose request or proposal is approved pursuant to NRS 408.5483 for transportation services to be provided by the transportation facility in exchange for such payments for service and other consideration as the Department may deem appropriate ~~and~~, **including, without limitation, periodic payments, construction payments, milestone payments, progress payments, payments based on availability or any other performance-based payments, payments relating to compensation events specified in a public-private partnership and payments relating to or arising out of the termination of a public-private partnership.**

2. The powers, rights, reservations and authority granted to the Department pursuant to section 60 of this act with respect to an eligible transportation facility authorized by sections 36 to 65, inclusive, of this act, apply to the development, design, construction, financing, improvement, maintenance or operation, or any combination thereof, of a transportation facility authorized by NRS 408.5471 to 408.549, inclusive.

3. If a transportation facility authorized by NRS 408.5471 to 408.549, inclusive, imposes or otherwise involves user fees, the powers, rights, reservations and authority granted to the Department with respect to an eligible transportation facility authorized by sections 36 to 65, inclusive, of this act:

(a) Apply to the development, design, construction, financing, improvement, maintenance or operation, or any combination thereof, of the transportation facility; and

(b) Are supplemental to the provisions of NRS 408.5471 to 408.549, inclusive.

4. As used in this section:

(a) "Eligible transportation facility" has the meaning ascribed to it in section 39 of this act.

(b) "Public-private partnership" has the meaning ascribed to it in section 43 of this act.

Sec. 75. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610,

365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, **and sections 51 and 54 of this act**, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 76. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of NRS 338.1415 and:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.1685 to 338.16995, inclusive; or
- (d) NRS 338.1711 to 338.173, inclusive.

2. Except as otherwise provided in this subsection, subsection 3 and chapter 408 of NRS, the provisions of this chapter apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive. ~~It is the intent of the Legislature to amend NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, to read:~~ **, and sections 36 to 65, inclusive, of this act.**

3. To the extent that a provision of this chapter precludes the granting of federal assistance or reduces the amount of such assistance with respect to a contract for the construction, reconstruction, improvement or maintenance of highways that is awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive, **and sections 36 to 65, inclusive, of this act,** that provision of this chapter does not apply to the Department of Transportation or the contract.

Sec. 77. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to ~~[NRS 408.323 or 408.327,]~~ **the provisions of chapter 408 of NRS;**

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.1685 to 338.16995, inclusive.

Sec. 78. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8, a local government or its authorized representative that awards a contract for a public

work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published within the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 or 338.1446.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall

prepare and make available for public inspection a written statement containing:

- (a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;
- (b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;
- (c) An estimate of the cost of administrative support for the persons assigned to the public work;
- (d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and
- (e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

- (a) Any utility subject to the provisions of chapter 318 or 710 of NRS;
- (b) Any work of construction, reconstruction, improvement and maintenance of highways subject to ~~[NRS 408.323 or 408.327,]~~ **the provisions of chapter 408 of NRS;**
- (c) Normal maintenance of the property of a school district;
- (d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;
- (e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;
- (f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or
- (g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.1685 to 338.1695, inclusive.

Sec. 79. NRS 361.157 is hereby amended to read as follows:

361.157 1. When any real estate or portion of real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business conducted for profit or as a residence, or both, the leasehold interest, possessory interest, beneficial interest or beneficial use of the lessee or user of the property is subject to taxation to the extent the:

- (a) Portion of the property leased or used; and
- (b) Percentage of time during the fiscal year that the property is leased by the lessee or used by the user, in accordance with NRS 361.2275,

↪ can be segregated and identified. The taxable value of the interest or use must be determined in the manner provided in subsection 3 of NRS 361.227 and in accordance with NRS 361.2275.

2. Subsection 1 does not apply to:

(a) Property located upon a public airport, park, market or fairground, or any property owned by a public airport, unless the property owned by the public airport is not located upon the public airport and the property is leased, loaned or otherwise made available for purposes other than for the purposes of a public airport, including, without limitation, residential, commercial or industrial purposes;

(b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(c) Property of any state-supported educational institution, except any part of such property located within a tax increment area created pursuant to NRS 278C.155;

(d) Property leased or otherwise made available to and used by a natural person, private association, private corporation, municipal corporation, quasi-municipal corporation or a political subdivision under the provisions of the Taylor Grazing Act or by the United States Forest Service or the Bureau of Reclamation of the United States Department of the Interior;

(e) Property of any Indian or of any Indian tribe, band or community which is held in trust by the United States or subject to a restriction against alienation by the United States;

(f) Vending stand locations and facilities operated by persons who are blind under the auspices of the Bureau of Services to Persons Who Are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation, whether or not the property is owned by the federal, state or a local government;

(g) Leases held by a natural person, corporation, association, municipal corporation, quasi-municipal corporation or political subdivision for development of geothermal resources, but only for resources which have not been put into commercial production;

(h) The use of exempt property that is leased, loaned or made available to a public officer or employee, incident to or in the course of public employment;

(i) A parsonage owned by a recognized religious society or corporation when used exclusively as a parsonage;

(j) Property owned by a charitable or religious organization all, or a portion, of which is made available to and is used as a residence by a natural person in connection with carrying out the activities of the organization;

(k) Property owned by a governmental entity and used to provide shelter at a reduced rate to elderly persons or persons having low incomes;

(l) The occasional rental of meeting rooms or similar facilities for periods of less than 30 consecutive days;

(m) The use of exempt property to provide day care for children if the day care is provided by a nonprofit organization; ~~for~~

(n) Any lease, easement, operating agreement, license, permit or right of entry for any exempt state property granted by the Department of Transportation pursuant to section 62 of this act; or

(o) Any lease, easement, operating agreement, license, permit or right of entry for any exempt state property granted by the Department or the Regional Transportation Commission of Southern Nevada pursuant to section 45 of the Boulder City Bypass Toll Road Demonstration Project Act.

3. Taxes must be assessed to lessees or users of exempt real estate and collected in the same manner as taxes assessed to owners of other real estate, except that taxes due under this section do not become a lien against the property. When due, the taxes constitute a debt due from the lessee or user to the county for which the taxes were assessed and, if unpaid, are recoverable by the county in the proper court of the county.

Sec. 80. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 81. The Department of Transportation shall allocate \$20,000,000 or the amount of money saved from the use of a public-private partnership pursuant to the provisions of sections 36 to 65, inclusive, of this act, whichever is less, to the Tahoe transportation district established by NRS 277.200 for the support of the US 50/South Shore Community Revitalization Project.

Sec. 82. This act becomes effective on July 1, 2015.

Assemblyman Wheeler moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 452.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 433.

AN ACT relating to property taxes; revising provisions governing appeals of the assessment of property to county boards of equalization and the State Board of Equalization; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that under certain circumstances, the owner of real or personal property that is placed on the secured or unsecured tax roll may file an appeal concerning the assessment of the owner's property with the county board of equalization or the State Board of Equalization. (NRS 361.356, 361.357, 361.360) Existing law further provides that if a person files such an appeal, on behalf of the owner of the property, the person filing the appeal must provide to the county board of equalization or the State Board of Equalization, as appropriate, written authorization from the owner of the property that authorizes the person to file the appeal. If the appeal is filed in a timely manner without the written authorization, the person filing the appeal

may provide the written authorization within 48 hours after the deadline for filing the appeal. (NRS 361.362)

Section 1 of this bill specifically provides that **for the purposes of appeals to a county board of equalization or the State Board of Equalization**, the term “owner” includes a person who owns, controls or possesses taxable property ~~for is otherwise responsible for the payment of the taxes on the property or is an authorized representative of the property. Thus, under section 1, any of these persons may file an appeal without submitting the written authorization from the owner to file the appeal which is required under existing law.~~

Section 2 of this bill **provides that the written authorization to file an appeal on behalf of an owner of property may be signed by: (1) the owner; or (2) an employee of the owner, or an affiliate of the owner, who is acting within the scope of his or her employment. Section 2 further** provides that if ~~an appeal must be filed with the written authorization from the owner to file the appeal but the assessor objects~~ **there is an objection** to the written authorization, ~~the assessor must give~~ **provided by the person who filed the appeal**, written notice of the objection **must be given** to the person who filed the appeal and that person may submit documentation to cure the objection within ~~71~~ **5 business** days after receipt of the notice.

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

Section 1. NRS 361.334 is hereby amended to read as follows:
361.334 As used in NRS 361.334 to 361.435, inclusive:

1. *The term “owner” includes a person who owns, controls or possesses taxable property* ~~for is otherwise responsible for the payment of the taxes on the property or is an authorized representative of the property.~~

2. The term “property” includes a leasehold interest, possessory interest, beneficial interest or beneficial use of a lessee or user of property which is taxable pursuant to NRS 361.157 or 361.159.

~~2.~~ 3. Where the term “property” is read to mean a taxable leasehold interest, possessory interest, beneficial interest or beneficial use of a lessee or user of property, the term “owner” used in conjunction therewith must be interpreted to mean the lessee or user of the property.

Sec. 2. NRS 361.362 is hereby amended to read as follows:

361.362 **1.** Except as otherwise provided in this section, at the time that a person files an appeal pursuant to NRS 361.356, 361.357 or 361.360 on behalf of the owner of a property, the person shall provide to the county board of equalization or the State Board of Equalization, as appropriate, written authorization from the owner of the property that authorizes the person to file the appeal concerning the assessment that was made. **The written authorization may be signed by:**

(a) The owner; or

(b) An employee of the owner, or an affiliate of the owner, who is acting within the scope of his or her employment.

~~2. If ~~the~~ a person files the appeal in a timely manner without ~~the~~~~
~~1. Without~~ the written authorization required by ~~this section,~~ **subsection**
1, the person may provide that written authorization within 48 hours after the last day allowed for filing the appeal.

~~2. With the~~

~~3. If there is an objection to a written authorization ~~required by this section but the assessor objects to that written authorization, the assessor must give~~~~ **provided pursuant to subsection 1, written notice ~~of the objection~~ specifying the grounds for the objection must be given to the person filing the appeal by the assessor by certified mail . ~~the return receipt requested.~~** If the person filing the appeal submits ~~to the assessor any~~ documentation necessary to cure the objection within ~~77~~ **5 business days after receipt of the notice, the appeal must be deemed to be filed in a timely manner.**

Sec. 3. This act becomes effective on July 1, 2015.

Assemblyman Armstrong moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 49.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 365.

AN ACT relating to crimes; establishing the crime of unlawful dissemination of an intimate image of a person; prohibiting the electronic dissemination or the sale of an intimate image of another person in certain circumstances; ~~prohibiting a person from conspiring with, enabling, aiding or abetting another person in the commission of the unlawful dissemination of an intimate image;~~ prohibiting a person from demanding payment of money, property, services or anything else of value from a person ~~or directly or indirectly counseling, encouraging, hiring, commanding, inducing or otherwise procuring another person to make such a demand from a person;~~ in exchange for removing an intimate image from public view; revising provisions relating to sexual assault and the abuse of a child; setting forth provisions relating to expert testimony in a prosecution for pandering or sex trafficking; revising provisions concerning acts of open or gross lewdness, open and indecent or obscene exposure and lewdness with a child; **revising provisions relating to statutory sexual seduction;** revising provisions relating to sexual conduct between certain pupils and certain employees of or volunteers at a school and between certain students and certain employees of a college or university; setting forth various provisions relating to the admissibility of evidence and expert testimony in ~~the~~ criminal ~~actions~~ **and juvenile delinquency actions;** prohibiting a court from ordering the victim of

or a witness to a sexual offense to take or submit to a psychological or psychiatric examination in a criminal or juvenile delinquency action relating to the commission of the sexual offense; authorizing the court to exclude in certain circumstances the testimony of a licensed psychologist, psychiatrist or clinical worker who performed a psychological or psychiatric examination on such a victim or witness; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-~~6~~ 6.5 of this bill establish the crime of unlawful dissemination of an intimate image of a person. **Section 3** defines the term "intimate image" generally as a photograph, film, videotape or other recorded image, or any reproduction thereof, which depicts: (1) ~~the fully exposed nipple of the female breast~~ of another person; or (2) ~~another person~~ one or more persons engaged in sexual conduct. **Section 3** also provides that an image which would otherwise constitute an intimate image is not an intimate image if the person depicted in the image: (1) is not clearly identifiable; (2) voluntarily exposed himself or herself in a public or commercial setting; or (3) is a public figure.

Section 5 provides that a person commits the crime of unlawful dissemination of an intimate image and is guilty of a category ~~IC~~ D felony when, with the intent to harass, ~~annoy, alarm~~ harm or terrorize another person, the person electronically disseminates or sells an intimate image which depicts the other person and the other person: (1) did not give prior consent to the electronic dissemination or sale; ~~and~~ (2) had a reasonable expectation that the intimate image would be kept private and would not be made visible to the public ~~it~~ ; and (3) was at least 18 years of age when the intimate image was created. **Section 5** also sets forth certain exceptions regarding when an intimate image may be lawfully electronically disseminated. Under **section 6**, a person is guilty of a category ~~IC~~ D felony if he or she ~~(1) conspires with, enables, aids or abets another person in the electronic dissemination or the sale of an intimate image; (2)~~ demands payment of money, property, services or anything else of value from a person in exchange for removing an intimate image from public view ~~it~~ ; or (3) directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another person to make such a demand from a person in exchange for removing an intimate image from public view. **Section 6.5 provides that the provisions of sections 1-6 must not be construed to impose liability on an interactive computer service, as that term is defined in federal law, for any content provided by another person.**

Existing law provides that a person who forces another person under certain circumstances to make a sexual penetration on himself or herself or another, or on a beast, is guilty of sexual assault. (NRS 200.366) **Section 8** of this bill additionally provides that a person who commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast, is

guilty of sexual assault. **Section 8 further provides that, except in certain circumstances, such provisions do not apply to a person who commits any such act if the person is less than 18 years of age and is not more than 2 years older than the person upon whom the act is committed.**

Existing law also provides that a person who commits any act of open or gross lewdness or who makes any open and indecent or obscene exposure of his or her person, or of the person of another, is guilty of a gross misdemeanor for the first offense and a category D felony for any subsequent offense. (NRS 201.210, 201.220) Under **sections 13 and 14** of this bill, if a person commits any such offense and he or she has previously been convicted of a sexual offense, or if the person commits any such offense in the presence of a child under the age of 18 years or a vulnerable person, the person is guilty of a category D felony.

Additionally, under existing law, a person who commits certain acts with a child under the age of 14 years is guilty of lewdness with a child and is guilty of a category A felony. (NRS 201.230) **Section 15** of this bill increases that age to 16 years and provides that if a person commits lewdness with: (1) a child under the age of 14, he or she is guilty of a category A felony; and (2) a child who is 14 or 15, he or she is guilty of a category B felony. **Section 15 also provides that, except in certain circumstances, such provisions do not apply to a person who commits any such act if the person is less than 18 years of age and is not more than 2 years older than the person upon whom the act is committed.**

Section 7 of this bill revises the definition of the term “statutory sexual seduction,” and section 8.5 of this bill revises the penalties imposed for the crime of statutory sexual seduction. Section 15 provides that an act which constitutes the crime of statutory sexual seduction does not constitute lewdness with a child.

Section 10 of this bill provides that certain persons are guilty of a category A felony if they willfully cause, permit or allow a child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect, and substantial bodily or mental harm results to the child which includes certain severe injuries.

Sections 18 and 19 of this bill revise the punishment imposed for: (1) certain employees of or volunteers at a school who engage in sexual conduct with certain pupils; and (2) certain employees of a college or university who engage in sexual conduct with certain students.

Sections 12, ~~20,~~ 23 and 24 of this bill revise various provisions relating to the admissibility of expert testimony and evidence in certain criminal **and juvenile delinquency** cases. **Section 12** provides that in a prosecution for pandering or sex trafficking, certain expert testimony that is offered by the prosecution or defense is admissible for any relevant purpose, but certain other expert testimony cannot be offered against the defendant to prove the occurrence of an act which forms the basis of a criminal charge against the

defendant. ~~[Section 20 provides that a statement or confession made by a defendant in a criminal action is admissible if the prosecution proves by a preponderance of the evidence that the statement or confession is trustworthy.]~~

Under **section 23**, expert testimony offered by the prosecution or defense which concerns the behavior of a defendant in preparing a child under the age of 18 or a vulnerable person for sexual abuse by the defendant is admissible for any purpose. **Section 24** prohibits a court in a criminal or juvenile delinquency action relating to the commission of a sexual offense from ordering a victim of or witness to a sexual offense to take or submit to a psychological or psychiatric examination. **Section 24** also authorizes the court to exclude the testimony of a licensed psychologist, psychiatrist or clinical worker who performed a psychological or psychiatric examination on a victim or witness in certain circumstances.

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~6,~~ **6.5**, inclusive, of this act.

Sec. 2. *As used in sections 2 to ~~6,~~ 6.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Intimate image”:*

1. Except as otherwise provided in subsection 2, includes, without limitation, a photograph, film, videotape or other recorded image ~~for or any reproduction thereof,~~ which depicts:

(a) ~~[The naked genitals, pubic area or buttocks of another person;~~
~~—(b)— The fully exposed nipple of the female breast of another person with less than a fully opaque covering of any portion thereof below the top of the areola], including through transparent clothing; or~~

~~[(c) Another person]~~

~~(b) One or more persons engaged in sexual conduct.~~

2. Does not include an image which would otherwise constitute an intimate image pursuant to subsection 1, but in which the person depicted in the image:

(a) Is not clearly identifiable;

(b) Voluntarily exposed himself or herself in a public or commercial setting; or

(c) Is a public figure.

Sec. 4. *“Sexual conduct” means:*

~~1. Ordinary sexual intercourse;~~

~~2. Anal intercourse;~~

~~3. Fellatio, cunnilingus or other oral genital contact;~~

~~4. Penetration, however slight, by a person of an object into the genital or anal opening of the body of another person for the purposes of arousing or gratifying the sexual desire of either person; or~~

~~5. Masturbation has the meaning ascribed to it in NRS 200.700.~~

Sec. 5. 1. Except as otherwise provided in subsection 3, a person commits the crime of unlawful dissemination of an intimate image when, with the intent to harass, ~~annoy, alarm,~~ harm or terrorize another person, the person electronically disseminates or sells an intimate image which depicts the other person and the other person:

(a) Did not give prior consent to the electronic dissemination or the sale of the intimate image; ~~and~~

(b) Had a reasonable expectation that the intimate image would be kept private and would not be made visible to the public ~~if~~ ; and

(c) Was at least 18 years of age when the intimate image was created.

2. A person who commits the crime of unlawful dissemination of an intimate image is guilty of a category ~~C~~ D felony and shall be punished as provided in NRS 193.130.

3. The provisions of this section do not apply to the electronic dissemination of an intimate image for the purpose of:

(a) A legitimate public interest;

(b) Reporting unlawful conduct;

(c) Any lawful law enforcement or correctional activity;

(d) Investigation or prosecution of a violation of this section; or

(e) Preparation for or use in any legal proceeding.

4. A person who commits the crime of unlawful dissemination of an intimate image is not considered a sex offender and is not subject to registration or community notification as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.

Sec. 6. Any person who ~~is~~

~~1. Conspires with, enables, aids or abets another person in the unlawful dissemination of an intimate image in violation of section 5 of this act;~~

~~2. Demands payment of money, property, services or anything else of value from a person in exchange for removing an intimate image from public view; or~~

~~3. Directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another person to demand payment of money, property, services or anything else of value from a person in exchange for removing an intimate image from public view;~~

~~is~~ is guilty of a category ~~C~~ D felony and shall be punished as provided in NRS 193.130.

Sec. 6.5. 1. The provisions of sections 2 to 6.5, inclusive, of this act must not be construed to impose liability on an interactive computer service for any content provided by another person.

2. As used in subsection 1, "interactive computer service" has the meaning ascribed to it in 47 U.S.C. § 230(f)(2).

Sec. 7. NRS 200.364 is hereby amended to read as follows:

200.364 As used in NRS 200.364 to 200.3784, inclusive, unless the context otherwise requires:

1. "Offense involving a pupil" means any of the following offenses:

(a) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.

(b) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.

2. "Perpetrator" means a person who commits a sexual offense, an offense involving a pupil or sex trafficking.

3. "Sex trafficking" means a violation of subsection 2 of NRS 201.300.

4. "Sexual offense" means any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

5. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. ***The term does not include any such conduct for medical purposes.***

6. "Statutory sexual seduction" means ~~for~~

~~—(a) Ordinary~~ ***ordinary*** sexual intercourse, anal intercourse, ~~cunnilingus or fellatio~~ ***or sexual penetration*** committed by a person 18 years of age or older with a person ~~under the age of 16 years; or~~

~~—(b) Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons.~~ ***who is 14 or 15 years of age and who is at least 4 years younger than the perpetrator.***

7. "Victim" means a person who is a victim of a sexual offense, an offense involving a pupil or sex trafficking.

Sec. 8. NRS 200.366 is hereby amended to read as follows:

200.366 1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or herself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct, ***or who commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast,*** is guilty of sexual assault.

2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:

(a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.

(b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.

3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:

(a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.

(b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 25 years has been served.

(c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 35 years has been served.

4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:

(a) A sexual assault pursuant to this section or any other sexual offense against a child; or

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child,

↪ is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

5. **The provisions of this section do not apply to a person who is less than 18 years of age and who commits any of the acts described in subsection 1 if the person is not more than 2 years older than the person upon whom the act was committed unless:**

(a) The person committing the act uses force or threatens the use of force;

(b) The person upon whom the act is committed suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness that is apparent or known to the person committing the act; or

(c) The victim has diminished capacity at the time of the offense as a result of drug or alcohol use.

6. For the purpose of this section, “other sexual offense against a child” means any act committed by an adult upon a child constituting:

(a) Incest pursuant to NRS 201.180;

(b) Lewdness with a child pursuant to NRS 201.230;

(c) Sado-masochistic abuse pursuant to NRS 201.262; or

(d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

Sec. 8.5. NRS 200.368 is hereby amended to read as follows:

200.368 ~~[Except under circumstances where a greater penalty is provided in NRS 201.540, a]~~ A person who commits statutory sexual seduction shall be punished:

1. If the person is 21 years of age or older ~~[, for a category C felony as provided in NRS 193.130.]~~ at the time of the commission of the offense, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

2. ~~[[~~ Except as otherwise provided in subsection 3, if the person is under the age of 21 years, for a gross misdemeanor.

3. If the person is under the age of 21 years and has previously been convicted of a sexual offense, as defined in NRS 179D.097, for a category D felony as provided in NRS 193.130.

Sec. 9. NRS 200.400 is hereby amended to read as follows:

200.400 1. As used in this section:

(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Strangulation" has the meaning ascribed to it in NRS 200.481.

2. A person who is convicted of battery with the intent to commit mayhem, robbery or grand larceny is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

3. A person who is convicted of battery with the intent to kill is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years.

4. A person who is convicted of battery with the intent to commit sexual assault shall be punished:

(a) If the crime results in substantial bodily harm to the victim or is committed by strangulation, for a category A felony by imprisonment in the state prison:

(1) For life without the possibility of parole; or

(2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served . ~~;~~

~~as determined by the verdict of the jury, or the judgment of the court if there is no jury.]~~

(b) If the crime does not result in substantial bodily harm to the victim and the victim is 16 years of age or older, for a category A felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of life with the possibility of parole.

(c) If the crime does not result in substantial bodily harm to the victim and the victim is a child under the age of 16, for a category A felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of life with the possibility of parole.

↪ In addition to any other penalty, a person convicted pursuant to this subsection may be punished by a fine of not more than \$10,000.

Sec. 10. NRS 200.508 is hereby amended to read as follows:

200.508 1. A person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served; or

(2) *If the child is less than 18 years of age and the resulting harm includes, without limitation, one or more of the following injuries:*

(I) Skull fracture;

(II) Depressed skull fracture;

(III) Cerebral laceration;

(IV) Cerebral contusion;

(V) Subarachnoid hemorrhage;

(VI) Subdural hemorrhage in the brain, neck or spinal cord;

(VII) Epidural hemorrhage;

(VIII) Intracranial hemorrhage;

(IX) Cerebral edema caused by trauma;

(X) Multiple fractures of the skull or face with injuries to other bones of the body;

(XI) Contusion of the cerebellum or brain stem;

(XII) Optic nerve injury;

(XIII) Retinal hemorrhage;

(XIV) Loss of eyesight;

(XV) Loss of hearing; or

(XVI) Speech impairment or loss of speech,

↪ *is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served, or for a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served.*

(3) In all other such cases to which subparagraph (1) **or** (2) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, 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; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years,

↪ unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

2. A person who is responsible for the safety or welfare of a child **pursuant to NRS 432B.130** and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(2) *If the child is less than 18 years of age and the resulting harm includes, without limitation, one or more of the following injuries:*

(I) Skull fracture;

(II) Depressed skull fracture;

(III) Cerebral laceration;

(IV) Cerebral contusion;

(V) Subarachnoid hemorrhage;

(VI) Subdural hemorrhage in the brain, neck or spinal cord;

(VII) Epidural hemorrhage;

(VIII) Intracranial hemorrhage;

(IX) Cerebral edema caused by trauma;

(X) Multiple fractures of the skull or face with injuries to other bones

of the body;

(XI) Contusion of the cerebellum or brain stem;

(XII) Optic nerve injury;

(XIII) Retinal hemorrhage;

(XIV) Loss of eyesight;

(XV) Loss of hearing; or

(XVI) Speech impairment or loss of speech,

↪ *is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served, or for a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served.*

(3) In all other such cases to which subparagraph (1) **or** (2) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a gross misdemeanor; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category C felony and shall be punished as provided in NRS 193.130,

↪ unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

3. A person does not commit a violation of subsection 1 or 2 by virtue of the sole fact that the person delivers or allows the delivery of a child to a provider of emergency services pursuant to NRS 432B.630.

4. As used in this section:

(a) “Abuse or neglect” means ~~“battery, as defined in NRS 200.481,”~~ physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070, 432B.100, 432B.110, 432B.140 and 432B.150, under circumstances which indicate that the child’s health or welfare is harmed or threatened with harm.

(b) “Allow” means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that the child is abused or neglected.

(c) “Permit” means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care, custody and control of a minor child.

(d) “Physical injury” means:

(1) Permanent or temporary disfigurement; or

(2) Impairment of any bodily function or organ of the body.

(e) “Substantial mental harm” means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior.

Sec. 11. NRS 200.604 is hereby amended to read as follows:

200.604 1. Except as otherwise provided in subsection 4, a person shall not knowingly and intentionally capture an image of the private area of another person:

(a) Without the consent of the other person; and

(b) Under circumstances in which the other person has a reasonable expectation of privacy.

2. Except as otherwise provided in subsection 4, a person shall not distribute, disclose, display, transmit or publish an image that the person knows or has reason to know was made in violation of subsection 1.

3. ~~{A}~~ ***Unless a greater penalty is provided pursuant to section 5 of this act, a*** person who violates this section:

(a) For a first offense, is guilty of a gross misdemeanor.

(b) For a second or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. This section does not prohibit any lawful law enforcement or correctional activity, including, without limitation, capturing, distributing, disclosing, displaying, transmitting or publishing an image for the purpose of investigating or prosecuting a violation of this section.

5. If a person is charged with a violation of this section, any image of the private area of a victim that is contained within:

(a) Court records;

(b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;

(c) Records of criminal history, as that term is defined in NRS 179A.070; and

(d) Records in the Central Repository for Nevada Records of Criminal History,

↪ is confidential and, except as otherwise provided in subsections 6 and 7, must not be inspected by or released to the general public.

6. An image that is confidential pursuant to subsection 5 may be inspected or released:

(a) As necessary for the purposes of investigation and prosecution of the violation;

(b) As necessary for the purpose of allowing a person charged with a violation of this section and his or her attorney to prepare a defense; and

(c) Upon authorization by a court of competent jurisdiction as provided in subsection 7.

7. A court of competent jurisdiction may authorize the inspection or release of an image that is confidential pursuant to subsection 5, upon application, if the court determines that:

(a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the inspection or release; and

(b) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

8. As used in this section:

(a) "Broadcast" means to transmit electronically an image with the intent that the image be viewed by any other person.

(b) "Capture," with respect to an image, means to videotape, photograph, film, record by any means or broadcast.

(c) "Female breast" means any portion of the female breast below the top of the areola.

(d) “Private area” means the naked or undergarment clad genitals, pubic area, buttocks or female breast of a person.

(e) “Under circumstances in which the other person has a reasonable expectation of privacy” means:

(1) Circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of his or her private area would be captured; or

(2) Circumstances in which a reasonable person would believe that his or her private area would not be visible to the public, regardless of whether the person is in a public or private place.

Sec. 12. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

In a prosecution for pandering or sex trafficking pursuant to NRS 201.300, expert testimony concerning:

1. The prostitution subculture, including, without limitation, the effect of physical, emotional or mental abuse on the beliefs, behavior and perception of the alleged victim of the pandering or sex trafficking that is offered by the prosecution or defense is admissible for any relevant purpose, including, without limitation, to demonstrate:

(a) The dynamics of and the manipulation and psychological control measures used in the relationship between a prostitute and a person who engages in pandering or sex trafficking in violation of NRS 201.300; and

(b) The normal behavior and language used in the prostitution subculture.

2. The effect of pandering or sex trafficking may not be offered against a defendant pursuant to subsection 1 to prove the occurrence of an act which forms the basis of a criminal charge against the defendant.

Sec. 13. NRS 201.210 is hereby amended to read as follows:

201.210 1. A person who commits any act of open or gross lewdness is guilty:

(a) ~~For~~ ***Except as otherwise provided in this subsection, for*** the first offense, of a gross misdemeanor.

(b) For any subsequent offense, ***or if the person has previously been convicted of a sexual offense as defined in NRS 179D.097, of a category D felony and shall be punished as provided in NRS 193.130.***

(c) ***For an offense committed in the presence of a child under the age of 18 years or a vulnerable person as defined in paragraph (a) of subsection 7 of NRS 200.5092, of a category D felony and shall be punished as provided in NRS 193.130.***

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open or gross lewdness.

Sec. 14. NRS 201.220 is hereby amended to read as follows:

201.220 1. A person who makes any open and indecent or obscene exposure of his or her person, or of the person of another, is guilty:

(a) ~~For~~ **Except as otherwise provided in this subsection, for** the first offense, of a gross misdemeanor.

(b) For any subsequent offense, **or if the person has previously been convicted of a sexual offense as defined in NRS 179D.097,** of a category D felony and shall be punished as provided in NRS 193.130.

(c) For an offense committed in the presence of a child under the age of 18 years or a vulnerable person as defined in paragraph (a) of subsection 7 of NRS 200.5092, of a category D felony and shall be punished as provided in NRS 193.130.

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open and indecent or obscene exposure of her body.

Sec. 15. NRS 201.230 is hereby amended to read as follows:

201.230 1. A person who willfully and lewdly commits any lewd or lascivious act, other than acts constituting the ~~crime~~ **crimes** of sexual assault ~~or statutory sexual seduction,~~ upon or with the body, or any part or member thereof, of a child under the age of ~~14~~ **16** years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, is guilty of lewdness with a child.

2. Except as otherwise provided in subsection ~~3~~ **4**, a person who commits lewdness with a child **under the age of 14** is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served, and may be further punished by a fine of not more than \$10,000.

3. **Except as otherwise provided in subsection 4, a person who commits lewdness with a child who is 14 or 15 years of age is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than ~~2 years~~ 1 year and a maximum term of not more than ~~20~~ 10 years and may be further punished by a fine of not more than \$10,000.**

4. A person who commits lewdness with a child and who has been previously convicted of:

(a) Lewdness with a child pursuant to this section or any other sexual offense against a child; or

(b) An offense committed in another jurisdiction that, if committed in this State, would constitute lewdness with a child pursuant to this section or any other sexual offense against a child,

↪ is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.

~~4~~ 5. **The provisions of this section do not apply to a person who is less than 18 years of age and who commits any act described in subsection 1 if the person is not more than 2 years older than the person upon whom the act was committed unless:**

(a) The person committing the act uses force or threatens the use of force;

(b) The person upon whom the act is committed suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness that is apparent or known to the person committing the act; or

(c) The victim has diminished capacity at the time of the offense as a result of drug or alcohol use.

6. For the purpose of this section, “other sexual offense against a child” has the meaning ascribed to it in subsection 5 of NRS 200.366.

Sec. 16. NRS 201.295 is hereby amended to read as follows:

201.295 As used in NRS 201.295 to 201.440, inclusive, **and section 12 of this act**, unless the context otherwise requires:

1. “Adult” means a person 18 years of age or older.
2. “Child” means a person less than 18 years of age.
3. “Induce” means to persuade, encourage, inveigle or entice.
4. “Prostitute” means a male or female person who for a fee, monetary consideration or other thing of value engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.
5. “Prostitution” means engaging in sexual conduct with another person in return for a fee, monetary consideration or other thing of value.
6. “Sexual conduct” means any of the acts enumerated in subsection 4.
7. “Transports” means to transport or cause to be transported, by any means of conveyance, into, through or across this State, or to aid or assist in obtaining such transportation.

Sec. 17. NRS 201.520 is hereby amended to read as follows:

201.520 “Sexual conduct” means:

1. Ordinary sexual intercourse;
2. Anal intercourse;
3. Fellatio, cunnilingus or other oral-genital contact;
4. Physical contact by a person with the unclothed genitals or pubic area of another person for the purpose of arousing or gratifying the sexual desire of either person;
5. Penetration, however slight, by a person of an object into the genital or anal opening of the body of another person for the purpose of arousing or gratifying the sexual desire of either person;
6. Masturbation or the lewd exhibition of unclothed genitals; ~~{or}~~
7. Sado-masochistic abuse ~~{-}~~; **or**
8. **Any lewd or lascivious act upon or with the body, or any part or member thereof, of another person.**

Sec. 18. NRS 201.540 is hereby amended to read as follows:

201.540 1. Except as otherwise provided in subsection ~~{4.}~~ **3**, a person who:

- (a) Is 21 years of age or older;

(b) Is or was employed in a position of authority by a public school or private school or is or was volunteering in a position of authority at a public or private school; and

(c) Engages in sexual conduct with a pupil who is 16 or 17 years of age and:

(1) Who is or was enrolled in or attending the public school or private school at which the person is or was employed or volunteering; or

(2) With whom the person has had contact in the course of performing his or her duties as an employee or volunteer,

~~↳ is guilty of a category C felony and shall be punished as provided in NRS 193.130.~~

~~— 2. Except as otherwise provided in subsection 4, a person who:~~

~~— (a) Is 21 years of age or older;~~

~~— (b) Is or was employed in a position of authority by a public school or private school or is or was volunteering in a position of authority at a public or private school; and~~

~~— (c) Engages in sexual conduct with a pupil who is 14 or 15 years of age and:~~

~~— (1) Who is or was enrolled in or attending the public school or private school at which the person is or was employed or volunteering; or~~

~~— (2) With whom the person has had contact in the course of performing his or her duties as an employee or volunteer,]~~

↳ 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}~~ **2 years** and a maximum term of not more than ~~{6} 20~~ years, and may be further punished by a fine of not more than ~~[\$5,000.]~~ **\$10,000.**

~~{3.}~~ **2.** For the purposes of ~~{subsections}~~ **subsection 1** ~~{and 2,}~~ a person shall be deemed to be or have been employed in a position of authority by a public school or private school or deemed to be or have been volunteering in a position of authority at a public or private school if the person is or was employed or volunteering as:

(a) A teacher or instructor;

(b) An administrator;

(c) A head or assistant coach; or

(d) A teacher's aide or an auxiliary, nonprofessional employee who assists licensed personnel in the instruction or supervision of pupils pursuant to NRS 391.100.

~~{4.}~~ **3.** The provisions of this section do not apply to a person who is married to the pupil.

Sec. 19. NRS 201.550 is hereby amended to read as follows:

201.550 1. Except as otherwise provided in subsection 3, a person who:

(a) Is 21 years of age or older;

(b) Is employed in a position of authority by a college or university; and

(c) Engages in sexual conduct with a student who is 16 or 17 years of age and who is enrolled in or attending the college or university at which the person is employed,

↪ is guilty of a category ~~IC~~ **B** felony and shall be punished ~~as provided in NRS 193.130.1~~ **by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and may be further punished by a fine of not more than \$10,000.**

2. For the purposes of subsection 1, a person shall be deemed to be employed in a position of authority by a college or university if the person is employed as:

- (a) A teacher, instructor or professor;
- (b) An administrator; or
- (c) A head or assistant coach.

3. The provisions of this section do not apply to a person who is married to the student.

Sec. 20. ~~Chapter 47 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. In addition to any other provision of law or court rule providing for its admissibility, a statement or confession made by a defendant in a criminal action is admissible if the prosecution proves by a preponderance of the evidence that the statement or confession is trustworthy.~~

~~2. In determining whether a statement or confession is trustworthy, the court may consider, without limitation:~~

~~(a) Evidence that supports the facts contained in the statement or confession;~~

~~(b) Evidence that may support the commission of a crime, which is corroborated by the facts contained in the statement or confession; and~~

~~(c) Whether the circumstances under which the statement or confession was made support the assertion that the statement or confession is trustworthy.~~ **(Deleted by amendment.)**

Sec. 21. NRS 48.045 is hereby amended to read as follows:

48.045 1. Evidence of a person's character or a trait of his or her character is not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion, except:

(a) Evidence of a person's character or a trait of his or her character offered by an accused, and similar evidence offered by the prosecution to rebut such evidence;

(b) Evidence of the character or a trait of character of the victim of the crime offered by an accused, subject to the procedural requirements of NRS 48.069 where applicable, and similar evidence offered by the prosecution to rebut such evidence; and

(c) Unless excluded by NRS 50.090, evidence of the character of a witness, offered to attack or support his or her credibility, within the limits provided by NRS 50.085.

2. Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of

motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

3. *Nothing in this section shall be construed to prohibit the admission of evidence in a criminal prosecution for a sexual offense that a person committed another crime, wrong or act that constitutes a separate sexual offense. As used in this subsection, "sexual offense" has the meaning ascribed to it in NRS 179D.097.*

Sec. 22. Chapter 50 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 and 24 of this act.

Sec. 23. 1. *In any criminal or juvenile delinquency action, expert testimony offered by the prosecution or defense which concerns the behavior of a defendant in preparing a child under the age of 18 years or a vulnerable person as defined in NRS 200.5092 for sexual abuse by the defendant is admissible for any relevant purpose. Such expert testimony may concern, without limitation:*

(a) *The effect on the victim from the defendant creating a physical or emotional relationship with the victim before the sexual abuse; and*

(b) *Any behavior of the defendant that was intended to reduce the resistance of the victim to the sexual abuse or reduce the likelihood that the victim would report the sexual abuse.*

2. *As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 432B.100.*

Sec. 24. 1. *In any criminal or juvenile delinquency action relating to the commission of a sexual offense, a court may not order the victim of or a witness to the sexual offense to take or submit to a psychological or psychiatric examination.*

2. *The court may exclude the testimony of a licensed psychologist, psychiatrist or clinical worker who performed a psychological or psychiatric examination on the victim or witness if:*

(a) *There is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness by a licensed psychologist, psychiatrist or clinical worker; and*

(b) *The victim or witness refuses to submit to an additional psychological or psychiatric examination by a licensed psychologist, psychiatrist or clinical worker.*

3. *In determining whether there is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness pursuant to subsection 2, the court must consider whether:*

(a) *There is a reasonable basis for believing that the mental or emotional state of the victim or witness may have affected his or her ability to perceive and relate events relevant to the criminal prosecution; and*

(b) *Any corroboration of the offense exists beyond the testimony of the victim or witness.*

4. *If the court determines there is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim*

or witness, the court shall issue a factual finding that details with particularity the reasons why an additional psychological or psychiatric examination of the victim or witness is warranted.

5. If the court issues a factual finding pursuant to subsection 4 and the victim or witness consents to an additional psychological or psychiatric examination, the court shall set the parameters for the examination consistent with the purpose of determining the ability of the victim or witness to perceive and relate events relevant to the criminal prosecution.

6. As used in this section, “sexual offense” includes, without limitation:

- (a) Sexual assault pursuant to NRS 200.366;
- (b) Statutory sexual seduction pursuant to NRS 200.368;
- (c) Battery with intent to commit sexual assault pursuant to NRS 200.400;
- (d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation;
- (e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;
- (f) Incest pursuant to NRS 201.180;
- (g) Open or gross lewdness pursuant to NRS 201.210;
- (h) Indecent or obscene exposure pursuant to NRS 201.220;
- (i) Lewdness with a child pursuant to NRS 201.230;
- (j) Sexual penetration of a dead human body pursuant to NRS 201.450;
- (k) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this section;
- (l) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this section;
- (m) Luring a child or a person with mental illness pursuant to NRS 201.560;
- (n) An offense that is found to be sexually motivated pursuant to NRS 175.547 or 207.193;
- (o) Pandering of a child pursuant to NRS 201.300;
- (p) Any other offense that has an element involving a sexual act or sexual conduct with another person; or
- (q) Any attempt or conspiracy to commit an offense listed in this subsection.

Sec. 25. NRS 50.260 is hereby amended to read as follows:

50.260 As used in NRS 50.260 to 50.345, inclusive, **and section 23 of this act**, unless the context otherwise requires, “prohibited substance” has the meaning ascribed to it in NRS 484C.080.

Sec. 26. NRS 432B.140 is hereby amended to read as follows:

432B.140 Negligent treatment or maltreatment of a child occurs if a child has been subjected to harmful behavior that communicates rejection or is threatening, intimidating, disparaging, terrorizing or humiliating, has been

subjected to painful ~~[-, unhealthy]~~ or abusive conduct, has been abandoned, is without proper care, control ~~[and]~~ *or* supervision or lacks the subsistence, education, shelter, medical care or other care necessary for the well-being of the child because of the faults or habits of the person responsible for the welfare of the child or the neglect or refusal of the person to provide them when able to do so.

Sec. 27. 1. The amendatory provisions of sections 1 to 5, inclusive, ~~6.5~~ and 11 of this act apply to an intimate image that is electronically disseminated or sold on or after ~~[the effective date of this act.]~~ **October 1, 2015.**

2. The amendatory provisions of section 6 of this act apply to an intimate image that is electronically disseminated or sold before, on or after ~~the effective date of this act.]~~ **October 1, 2015,** if, on or after ~~[the effective date of this act.]~~ **October 1, 2015,** a person:

(a) Demands payment of money, property, services or anything else of value from a person in exchange for removing the intimate image from public view; or

(b) Directly or indirectly counsels, hires, commands, induces or otherwise procures another person to demand payment of money, property, services or anything else of value from a person in exchange for removing the intimate image from public view.

3. The amendatory provisions of sections 7 to 10, inclusive, ~~13 ~~to~~ , 14, 15, ~~inclusive,~~ 17 ~~to~~ , 18, 19 ~~inclusive,~~~~ and 26 of this act apply to an offense that is committed on or after ~~[the effective date of this act.]~~ **October 1, 2015.**

4. The amendatory provisions of sections 12, 16 and 20 to 25, inclusive, of this act ~~[-]~~ apply to a court proceeding that is commenced on or after ~~the effective date of this act.]~~ **October 1, 2015.**

5. As used in this section, “intimate image” has the meaning ascribed to it in section 3 of this act.

Sec. 28. ~~[This act becomes effective upon passage and approval.]~~
(Deleted by amendment.)

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that upon return from the printer, Assembly Bills Nos. 253, 249, 289, 326, 389, 448, 450, and 459 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Paul Anderson moved that the Assembly recess until 5:15 p.m.

Motion carried.

Assembly in recess at 4:39 p.m.

ASSEMBLY IN SESSION

At 7:09 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Assembly Bills Nos. 120, 159, 195, 283, 267, 305, 225, 178, and 212 be taken from their positions on the General File and placed at the top of the General File immediately after Assembly Bill No. 238.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 330 be declared an emergency measure under the *Constitution* and be taken from its position on the General File and placed at the top of the General File.

Remarks by Assemblywoman Kirkpatrick.

ASSEMBLYWOMAN KIRKPATRICK:

I just wanted to clarify for the committee that this addresses the committee's concerns, and that is why I requested a personal amendment.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 330.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 610.

AN ACT relating to energy; requiring a person who sells or installs certain systems for the generation of electricity or sells electricity generated by such systems to provide a warranty for each such system; requiring agreements for the financing, sale or lease of such systems or the sale of electricity generated by such systems to include or be accompanied by certain information, statements and disclosures; requiring sellers or lessors of such systems to maintain certain records; requiring a person who sells or installs such systems or sells electricity generated by such systems to register with the Office of Energy; providing that certain actions constitute ~~for~~ deceptive trade ~~practice,~~ practices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides requirements for agreements to sell, lease or install "distributed generation systems," which are defined as electricity generating

systems, other than certain portable or other electric generators intended for occasional use, that: (1) generate electricity from solar energy; (2) are located on the premises of a customer of an electric utility; (3) are connected on the customer's side of the electricity meter; (4) provide electricity primarily to offset customer load on those premises; and (5) operate in parallel with the utility's transmission and distribution facilities.

Section 6 of this bill requires a person who sells, installs or sells and installs a distributed generation system to provide with the sale or installation an express, written warranty for the system which must provide coverage for both parts and labor. The seller or installer also must provide with the sale or installation a description of the warranty, a description of any responsibility assumed or disclaimed by the seller or installer, and performance data for the system. **Section 7** of this bill requires a person transferring an obligation under a required warranty to provide the name, address and telephone number of the person to whom the obligation is being transferred.

Section 8 of this bill lists the requirements for any agreement for the financing, sale or lease of a distributed generation system or for the purchase of electricity generated by a distributed generation system. The agreement, which must be in writing, must include information regarding: (1) the manufacturer, seller and installer of the system; (2) the effectiveness of the system; (3) the cost of the purchase or lease and the cost of operating and maintaining the system; (4) tax incentives ~~and obligations~~ relating to the purchase or lease of the system or the purchase of electricity; and (5) any restrictions or obligations imposed by the agreement. The seller or lessor of a system or the seller of electricity also must provide written statements regarding utility rates and attesting to the truthfulness and completeness of the agreement. **Section 8** also provides that any such agreement ~~that fails to comply with these requirements~~ is voidable at the option of the person purchasing or leasing the system, or purchasing electricity generated by the system, until the installation of the system.

Section 9 of this bill provides requirements for an agreement for the financing, sale or lease of a distributed generation system that requires any modification or transfer of the system to be approved by a third party. **Section 10** of this bill provides requirements for an agreement that includes an estimate of the cost of electricity for the purchaser or lessee after the system is installed. **Section 11** of this bill requires a seller or lessor of a distributed generation system who represents to the purchaser or lessee that the purchaser or lessee will be entitled to certain tax credits to prepare and maintain a record of that representation.

Section 12 of this bill prohibits a person from selling, leasing or installing a distributed generation system or selling electricity generated by such a system without first registering with the Office of Energy. **Section 12** also requires the Director of the Office of Energy to adopt regulations relating to registration.

~~{Sections 6, 8 and}~~ Additionally, section 12 ~~{declare}~~ declares certain actions in violation of the provisions of this bill to constitute ~~{a}~~ deceptive trade ~~{practice}~~ practices for the purposes of chapter 598 of NRS.

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. *As used in sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Collector” means a component of a distributed generation system that is used to absorb solar radiation, convert the solar radiation to electricity and transfer the electricity to a storage unit.*

Sec. 4. 1. *“Distributed generation system” and “system” mean a system or facility for the generation of electricity that:*

- (a) Uses solar energy to generate electricity;*
- (b) Is located on the premises of a customer of an electric utility;*
- (c) Is connected on the customer’s side of the electricity meter;*
- (d) Provides electricity primarily to offset customer load on those premises; and*
- (e) Operates in parallel with the utility’s transmission and distribution facilities.*

2. *The term does not include a portable or other electric generator that is intended for occasional use.*

Sec. 5. *“Storage unit” means a component of a distributed generation system that is used to store electricity.*

Sec. 6. 1. *A person who sells a distributed generation system shall provide to the purchaser an express, written warranty for the system which:*

- (a) For the collectors and storage units of the system, expires not earlier than 20 years after the sale of the system;*
- (b) For the inverters of the system, expires not earlier than 7 years after the sale of the system;*
- (c) For all other components of the system, expires not earlier than 2 years after the sale of the system; and*
- (d) Must provide coverage for both parts and labor.*

2. *A person who installs a distributed generation system shall provide to the person for whom the system is installed an express, written warranty for the installation of the system which:*

- (a) For the collectors and storage units of the system, expires not earlier than 2 years after the installation of the system is completed;*
- (b) For all other components of the system, expires not earlier than 1 year after the installation of the system is completed; and*
- (c) Must provide coverage for both parts and labor.*

3. A person who sells, installs or sells and installs a distributed generation system shall provide with the system a written statement on a form prescribed by the Director. A copy of each statement must be provided to the Director, who shall make each such copy available for public inspection and copying. The statement must include:

(a) A description of the warranty required by the applicable provisions of this section for the system;

(b) A description of any responsibility assumed or disclaimed by the person providing the statement; and

(c) If the person providing the statement is the seller of the system, performance data, and the source of that data, for the system.

4. The provisions of this section relating to a person who installs a distributed generation system do not apply to a person who installs a system on his or her own premises.

~~5. A violation of this section constitutes a deceptive trade practice for the purposes of NRS 508.0903 to 508.0909, inclusive.~~

Sec. 7. If any obligation under a warranty required by section 6 of this act is transferred, the person transferring the obligation shall:

1. Provide to the purchaser or lessee of the distributed generation system the name, address and telephone number of the person to whom the obligation is being transferred; and

2. Disclose to the purchaser or lessee whether the person to whom the obligation is being transferred is certified by the North American Board of Certified Energy Practitioners or any successor organization.

Sec. 8. 1. An agreement for the financing, sale or lease of a distributed generation system, or an agreement for the purchase of electricity generated by a distributed generation system, must be in writing in at least 12-point font and must:

(a) Be signed and dated by the purchaser or lessee of the system or the purchaser of electricity.

(b) Include a provision granting the purchaser or lessee of the system or the purchaser of electricity the right to rescind the agreement for a period ending:

(1) Not less than 5 days after the agreement is signed; or

(2) When installation of the system begins,

↪ whichever is earlier.

(c) Include the name, mailing address and telephone number of the manufacturer, seller and installer of the system and, if the agreement is for the lease of the system, the name, mailing address and telephone number of the lessor of the system.

(d) Disclose whether the seller and installer of the system are certified by the North American Board of Certified Energy Practitioners or any successor organization.

~~(e) For each component of the system, include any serial number or other identifying number provided by the manufacturer of the component.~~

~~[(f)]~~ Separately set forth:

(1) If the agreement is pursuant to a financing agreement:

(I) The total cost to the purchaser or lessee over the duration of the agreement; and

(II) The total number of payments and the schedule of payments; and

(2) Any interest, fees for the installation of the system, fees for the preparation of any documents relating to the agreement and any other costs to be paid by the purchaser or lessee of the system or the purchaser of electricity, as applicable.

~~[(g)]~~ (f) Include an estimate of the total cost of operating and maintaining the system for the period during which it can be reasonably expected that the system will be operational, including, without limitation, the cost of any construction necessary for the installation of the system.

~~[(h)]~~ (g) Include an estimate of the amount of electricity that will be generated by the system on a monthly and annual basis.

~~[(i)]~~ (h) Identify each state and federal tax incentive available for purchasing or leasing the system or purchasing electricity generated by the system, including, without limitation, the expiration date of any such tax incentive and any conditions or requirements for qualifying for any such tax incentive.

~~[(j)]~~ Identify each tax obligation resulting from the purchase or lease of the system or the purchase of electricity generated by the system, including, without limitation:

~~— (1) Any~~

~~(i) Include an estimate of the assessed value [and the depreciation schedule] of the system [and the components] upon the installation of the system.~~

~~(2) Any sales, use or rental tax that may be assessed for the purchase or lease of the system or the purchase of electricity generated by the system; and~~

~~(3) Any obligation of the purchaser or lessee of the system or the purchaser of electricity generated by the system to transfer any tax incentive associated with the system.~~

~~[(k)]~~ (j) Disclose whether any obligations under a warranty required by section 6 of this act may be transferred.

~~[(l)]~~ (k) Disclose any restrictions which the agreement imposes on the modification or transfer of the system.

~~[(m)]~~ (l) Disclose any restrictions which the agreement imposes on the modification or transfer of the real property to which the system is affixed.

~~[(n)]~~ (m) Disclose any obligation the seller or lessor has regarding the installation or removal of the system.

~~[(o)]~~ (n) If the agreement is for the lease of a system, provide for the continuation, termination or transfer of the lease in the event of:

(1) The sale of the real property to which the system is affixed; or

(2) The death of the lessee.

~~[(p) If the agreement is for the sale or lease of a system, include the declaration required by subsection 4.]~~

~~[(q)]~~ (o) If the agreement is for the purchase of electricity generated by the system, include:

(1) The duration of the agreement; and

(2) The price per unit of electricity generated by the system and purchased by the purchaser, including, without limitation, any escalation factor affecting the price.

~~[(r)]~~ (p) Any other term or condition that a reasonable person would consider material to a decision to enter into an agreement for the financing, sale or lease of a system or the purchase of electricity generated by a system.

2. The seller or lessor of a distributed generation system shall provide to the purchaser or lessee, and the seller of electricity generated by a distributed generation system shall provide to the purchaser of such electricity, a written statement, separate from the agreement described in subsection 1, in substantially the following form:

Utility rates and utility rate structures are subject to change. These changes cannot be accurately predicted and may apply to you in the future. The projected savings from your distributed generation system are therefore subject to change. Tax incentives and tax subsidies are subject to change or termination by executive, legislative or regulatory action.

3. If an agreement described in subsection 1 refers to the price of electricity provided by a public utility, the seller or lessor of the distributed generation system or the seller of electricity generated by the system shall provide to the purchaser or lessor a written statement, separate from the agreement described in subsection 1, in at least 12-point font and in substantially the following form:

Utility rates and utility rate structures are subject to change. For additional information regarding utility rates and utility rate structures, you may contact your local public utility or the Public Utilities Commission of Nevada.

~~4. [The seller or lessor of a distributed generation system and the seller of electricity generated by a distributed generation system shall sign and provide to the purchaser or lessee a written declaration in substantially the following form:~~

~~Under penalty of perjury, I declare that I have examined this agreement and that, to the best of my knowledge and belief, the information contained in the agreement is true, correct and complete.~~

~~—5.]~~ An agreement for the financing, sale or lease of a distributed generation system, or an agreement for the purchase of electricity generated

by a distributed generation system, that does not comply with the requirements of subsection 1 or that is not accompanied by the statement required by subsection 2 is voidable at the option of the person buying or leasing the system or purchasing the electricity until the installation of the system begins.

~~[6. A failure by the seller or lessor of a distributed generation system or the seller of electricity generated by a distributed generation system to include in an agreement for the financing, sale or lease of a distributed generation system or an agreement for the purchase of electricity generated by a distributed generation system any provision required by this section constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0909, inclusive.]~~

Sec. 9. 1. If an agreement for the financing, sale or lease of a distributed generation system requires that any modification or transfer of the system be approved by a third party, the agreement must:

(a) Include the name, address and telephone number of the third party; and

(b) Identify any modification for which approval is required.

2. If an agreement for the financing, sale or lease of a distributed generation system requires that any modification or transfer of the real property to which the system is affixed be approved by a third party, the agreement must:

(a) Include the name, address and telephone number of the third party; and

(b) Identify any modification for which approval is required.

Sec. 10. If an agreement for the financing, sale or lease of a distributed generation system includes an estimate of the cost of electricity for the purchaser or lessee after the installation of the system, the agreement must include an estimate of the cost of electricity for the purchaser or lessee after any changes in the rates paid by customers of the utility providing electricity to the purchaser or lessee. The estimate must consider a range of possible rate changes from a 5 percent annual decrease to a 5 percent annual increase from the rate paid at the time of the agreement.

Sec. 11. 1. If the seller or lessor of a distributed generation system represents to the purchaser or lessee of the system that the purchaser or lessee will be entitled to a tax credit pursuant to 26 U.S.C. § 25D, the seller or lessor shall:

(a) Provide a written record of the representation to the purchaser or lessee of the system; and

(b) Maintain a copy of the record for not less than 7 years after the date of the sale or lease of the system.

2. The seller or lessor shall provide a copy of the record required by subsection 1 on request to an agent of the United States Internal Revenue Service for inspection or copying.

Sec. 12. 1. A person shall not sell, lease or install a distributed generation system or sell electricity generated by a distributed generation system unless the person has registered with the Office of Energy by submitting to the Office a form prescribed by the Director.

2. The Director shall adopt regulations:

(a) Requiring a registration form submitted to the Office of Energy pursuant to subsection 1 to include:

(1) The name, street address, mailing address, electronic mail address and telephone number of the registrant;

(2) The name and contact information of any person designated by the registrant to receive notices and other communications from the Office of Energy;

(3) A statement indicating each activity described in subsection 1 in which the registrant intends to engage; and

(4) Any other information required by the Director;

(b) Requiring a registrant to submit to the Office of Energy:

(1) An example of the agreement described in section 8 of this act for each activity described in subsection 1 in which the registrant has indicated he or she intends to engage; and

(2) An updated example of the agreement described in section 8 of this act, if a previously submitted example is no longer reasonably accurate or if the registrant intends to engage in an activity described in subsection 1 for which the registrant has not yet submitted an example of an agreement;

(c) Requiring a registrant to submit to the Office of Energy an amended registration form if any information provided to the Office of Energy on a registration form or a previously submitted amended registration form is no longer correct; and

(d) Providing the time period within which an updated example described in subparagraph (2) of paragraph (b) or an amended registration form described in paragraph (c) must be submitted.

3. Any of the following constitute a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive:

(a) The sale, lease or installation of a distributed generation system or the sale of electricity generated by a distributed generation system without:

~~[(a)]~~ (1) Registering with the Office of Energy pursuant to this section;

~~[(b)]~~ (2) Submitting to the Office of Energy the examples of agreements required to be submitted pursuant to regulations adopted pursuant to paragraph (b) of subsection 2; or

~~[(c)]~~ (3) Submitting to the Office of Energy an amended registration form within the time period prescribed pursuant to regulations adopted pursuant to paragraph (d) of subsection 2.

~~→ constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.;~~

(b) A violation of section 6, 7 or 11 of this act; or

(c) A failure by the seller or lessor of a distributed generation system or the seller of electricity generated by a distributed generation system to include in an agreement for the financing, sale or lease of a distributed generation system or an agreement for the purchase of electricity generated by a distributed generation system any provision required by section 8, 9 or 10 of this act.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 86.

Bill read third time.

The following amendment was proposed by Assemblyman Kirner:

Amendment No. 626.

AN ACT relating to health insurance; revising provisions governing the Board of Directors of the Silver State Health Insurance Exchange; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Silver State Health Insurance Exchange and provides for a governing board consisting of seven voting members and three ex-officio nonvoting members. (Chapter 695I of NRS) Existing law further provides that the members of the Board of Directors must not be affiliated in any way with a health insurer, shall not receive compensation for attending Board meetings and must hold a Board meeting at least once every quarter. (NRS 695I.300, 695I.330, 695I.340) **Section 1** of this bill removes the requirement that the Exchange be "state based." **Section 2** of this bill ~~expands the membership of the Board to nine voting members,~~ **revises the areas of expertise or experience that a board member may have to be appointed to the Board and** eliminates the prohibition against appointing to the Board a person affiliated with a health insurer. ~~and~~ **Section 2 further** provides that not more than two of the voting members of the Board may represent any particular area of expertise or experience. **Section 3** of this bill authorizes compensation to Board members who are engaged in the business of the Board. **Section 4** of this bill reduces the required number of Board meetings to one per calendar year.

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

Section 1. NRS 695I.210 is hereby amended to read as follows:

695I.210 1. The Exchange shall:

- (a) Create and administer a ~~state-based~~ health insurance exchange;
- (b) Facilitate the purchase and sale of qualified health plans;

(c) Provide for the establishment of a program to assist qualified small employers in Nevada in facilitating the enrollment of their employees in qualified health plans offered in the small group market;

(d) Make only qualified health plans available to qualified individuals and qualified small employers on or after January 1, 2014; and

(e) Unless the Federal Act is repealed or is held to be unconstitutional or otherwise invalid or unlawful, perform all duties that are required of the Exchange to implement the requirements of the Federal Act.

2. The Exchange may:

(a) Enter into contracts with any person, including, without limitation, a local government, a political subdivision of a local government and a governmental agency, to assist in carrying out the duties and powers of the Exchange or the Board; and

(b) Apply for and accept any gift, donation, bequest, grant or other source of money to carry out the duties and powers of the Exchange or the Board.

3. The Exchange is subject to the provisions of chapter 333 of NRS.

Sec. 2. NRS 695I.300 is hereby amended to read as follows:

695I.300 1. The governing authority of the Exchange is the Board, consisting of seven ~~nine~~ voting members and three ex officio nonvoting members.

2. Subject to the provisions of subsections 3 ~~4 and 5~~ **to 6, inclusive:**

(a) The Governor shall appoint five ~~seven~~ voting members of the Board;

(b) The Senate Majority Leader shall appoint one voting member of the Board; and

(c) The Speaker of the Assembly shall appoint one voting member of the Board.

3. Each voting member of the Board must have:

(a) Expertise in the sale or marketing of individual or small employer health insurance; ~~market;~~

(b) Expertise in health care administration, health care financing, ~~for~~ health information technology ~~or~~ **or health insurance;**

(c) Expertise in the administration of health care delivery systems;

(d) Experience as a consumer who would benefit from services provided by the Exchange; or

(e) Experience as a consumer advocate, including, without limitation, experience in consumer outreach and education for those who would benefit from services provided by the Exchange.

4. When making an appointment pursuant to subsection 2, the Governor, the Majority Leader and the Speaker of the Assembly shall consider the collective expertise and experience of the voting members of the Board and shall attempt to make each appointment so that:

(a) The areas of expertise and experience described in subsection 3 are collectively represented by the voting members of the Board; and

(b) The voting members of the Board represent a range and diversity of skills, knowledge, experience and geographic and stakeholder perspectives.

5. *When making an appointment pursuant to subsection 2, the Governor, the Majority Leader and the Speaker of the Assembly shall, as vacancies on the Board occur, ensure that not more than two voting members of the Board represent any particular area of expertise or experience described in paragraph (a), (b), (c), (d) or (e) of subsection 3.*

6. A voting member of the Board may not be a Legislator or hold any elective office in State Government.

~~[6. While serving on the Board, a voting member may not be in any way affiliated with a health insurer, including, without limitation, being an employee of, consultant to or member of the board of directors of a health insurer, having an ownership interest in a health insurer or otherwise being a representative of a health insurer.]~~

7. The following are ex officio nonvoting members of the Board who shall assist the voting members of the Board by providing advice and expertise:

(a) The Director of the Department of Health and Human Services, or his or her designee;

(b) The Director of the Department of Business and Industry, or his or her designee; and

(c) The Director of the Department of Administration, or his or her designee.

Sec. 3. NRS 695I.330 is hereby amended to read as follows:

695I.330 1. ~~[Except as otherwise provided in subsection 2, the voting members of the Board shall serve without compensation.]~~ **To the extent that money is available for that purpose, each member of the Board who is not an officer or employee of the State of Nevada or a political subdivision of the State is entitled to receive a salary of not more than \$80 per day, as fixed by the Executive Director, for each day or portion of a day spent on the business of the Board.**

2. If sufficient money is available from federal grant funds or revenues generated by the Exchange, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while attending meetings of the Board or otherwise engaged in the business of the Board.

Sec. 4. NRS 695I.340 is hereby amended to read as follows:

695I.340 1. The Board shall meet:

(a) At least once each calendar ~~[quarter;]~~ **year;** and

(b) At other times upon the call of the Chair or a majority of the voting members.

2. A majority of the voting members of the Board constitutes a quorum for the transaction of business.

3. A member of the Board may not vote by proxy.

Sec. 5. ~~[As soon as practicable after passage and approval of this act, the Governor shall appoint two additional members to the Board of Directors of the Silver State Health Insurance Exchange in accordance with the provisions~~

~~of section 2 of this act to initial terms ending on June 30, 2017.] (Deleted by amendment.)~~

Sec. 6. This act becomes effective on July 1, 2015.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 238.

Bill read third time.

The following amendment was proposed by Assemblywoman Dooling:

Amendment No. 615.

AN ACT relating to common-interest communities; revising provisions **authorizing a homeowners' association to direct the removal of vehicles from property owned or leased by the association; revising provisions governing eligibility to be a member of the executive board or an officer of a homeowners' association; revising provisions relating to the solicitation of bids for a homeowners' association project; and providing other matters properly relating thereto.**

Legislative Counsel's Digest:

Existing law establishes the Uniform Common-Interest Ownership Act, which governs common-interest communities. (Chapter 116 of NRS) Under existing law, **a homeowners' association is authorized, under certain circumstances, to direct the removal of a vehicle improperly parked on property owned or leased by the association. Unless a vehicle is blocking a certain area of the association property or the vehicle poses a threat to the health, safety or welfare of the units' owners or residents, an association must provide certain written or oral notice to the owner or operator of a vehicle at least 48 hours before the association may direct the removal of the vehicle. (NRS 116.3102) Section 1 of this bill removes these requirements. Existing law also provides that** unless a person is appointed by the declarant, a person may not be a member of the executive board or an officer of a homeowners' association if the person or certain other persons perform the duties of a community manager for that association. (NRS 116.31034) **Section 1.5 of this bill additionally excludes a person, other than a person appointed by the declarant, from being eligible as a candidate for, or as a member of, the executive board or an officer of a homeowners' association if: (1) except under certain circumstances, the person resides with, is married to or is related within the third degree of consanguinity to a member of the board or an officer of the association; (2) the person stands to gain any personal profit or compensation from a matter before the board; or (3) the person is a business associate of, or a co-owner of a business co-owned by, a person who is a member of the executive board or is an officer of the association or who performs the duties of a community manager for that association. Additionally, section 1.5 provides that if a person is not eligible to be a candidate for, or a member of, an executive**

board or an officer of the association, the association: (1) must not place the name of the person on any ballot as a candidate; and (2) must prohibit the person from serving as a member of the executive board or as an officer of the association.

Existing law also requires a homeowners' association to open and consider bids for an association project at a meeting of its executive board. (NRS 116.31086) **Section 2** of this bill requires an association to solicit, whenever reasonably possible, at least three bids if the association project is expected to cost: (1) in a common-interest community that consists of less than 1,000 units, \$2,500 or more; or (2) in a common-interest community that consists of 1,000 or more units, \$5,000 or more. **Section 2** further ~~[(1)]~~ specifies that the contents of bids which are opened at a meeting of the executive board must be read aloud ~~in summary form; (2) requires such contents to be posted on the Internet website of the association, if one exists; (3) authorizes the inclusion of such contents in an official newsletter or other similar publication that is circulated to each unit's owner; and (4) requires the members of the executive board to vote on the acceptance of a bid in accordance with Robert's Rules of Order Newly Revised.]~~

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

Section 1. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in this chapter, and subject to the provisions of the declaration, the association:

(a) Shall adopt and, except as otherwise provided in the bylaws, may amend bylaws and may adopt and amend rules and regulations.

(b) Shall adopt and may amend budgets in accordance with the requirements set forth in NRS 116.31151, may collect assessments for common expenses from the units' owners and may invest funds of the association in accordance with the requirements set forth in NRS 116.311395.

(c) May hire and discharge managing agents and other employees, agents and independent contractors.

(d) May institute, defend or intervene in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) May make contracts and incur liabilities. Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.

(f) May regulate the use, maintenance, repair, replacement and modification of common elements.

(g) May cause additional improvements to be made as a part of the common elements.

(h) May acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) May grant easements, leases, licenses and concessions through or over the common elements.

(j) May impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.

(k) May impose charges for late payment of assessments pursuant to NRS 116.3115.

(l) May impose construction penalties when authorized pursuant to NRS 116.310305.

(m) May impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) May impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) May provide for the indemnification of its officers and executive board and maintain directors and officers liability insurance.

(p) May assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) May exercise any other powers conferred by the declaration or bylaws.

(r) May exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) May direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. ~~In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:~~

~~(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or~~

~~(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.]~~

(t) May exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not limit the power of the association to deal with the declarant if the limit is more restrictive than the limit imposed on the power of the association to deal with other persons.

3. The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commence an action for a violation of the declaration, bylaws or rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:

(a) The association's legal position does not justify taking any or further enforcement action;

(b) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with current law;

(c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or

(d) It is not in the association's best interests to pursue an enforcement action.

4. The executive board's decision under subsection 3 not to pursue enforcement under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, but the executive board may not be arbitrary or capricious in taking enforcement action.

5. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

~~[Section 1.]~~ **Sec. 1.5.** NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's

control, the units' owners shall elect an executive board of at least three members, all of whom must be units' owners. The executive board shall elect the officers of the association. Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 3 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of the unit's owner's eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his or her name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his or her eligibility to serve as a member of the executive board pursuant to subsection 4, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then the secretary or other officer specified in the bylaws of the association will cause notice to be given to each unit's owner informing each unit's owner that:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section and the nominated candidates shall be deemed to be duly elected to the executive board unless:

(1) A unit's owner who is qualified to serve on the executive board nominates himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection; and

(2) The number of units' owners who submit such a nomination causes the number of candidates nominated for membership on the executive board to be greater than the number of members to be elected to the executive board.

(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.

6. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board, then:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The nominated candidates shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the period for nominations described in subsection 5; and

(c) The association shall send to each unit's owner notification that the candidates nominated have been elected to the executive board.

7. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association shall:

(a) Prepare and mail ballots to the units' owners pursuant to this section; and

(b) Conduct an election for membership on the executive board pursuant to this section.

8. Each person who is nominated as a candidate for membership on the executive board pursuant to subsection 4 or 5 must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➡ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his or her candidacy information. Except as otherwise provided in this subsection, the association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot or, in the event ballots are not prepared and mailed pursuant to subsection 6, in the next regular mailing of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.

9. Unless a person is appointed by the declarant:

(a) A person ~~may~~ **is** not **eligible to** be a **candidate for, or a** member of, the executive board or an officer of the association if ~~the~~ :

(1) ~~The~~ Unless there is an insufficient number of candidates to fill one or more vacancies as a member of the executive board or as an officer of the association, the person resides with another person in a unit, is married to that other person or is related by blood or adoption within the third degree of consanguinity or affinity, and if the other person is also a member of the executive board or is an officer of the association;

(2) The person stands to gain any personal profit or compensation of any kind from a matter before the executive board of the association;

(3) The person is a business associate of, or a co-owner of a business co-owned by, a person who is a member of the executive board or is an officer of the association or who performs the duties of a community manager for that association; or

(4) The person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

10. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, the person shall file proof in the records of the association that:

(a) The person is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

11. Except as otherwise provided in subsection 6 or NRS 116.31105, the election of any member of the executive board must be conducted by secret written ballot in the following manner:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for membership on the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

12. An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in the candidate's campaign for election as a member of the executive board, except that the candidate's campaign may be limited to 90 days before the date that ballots are required to be returned to the association.

13. A candidate who has submitted a nomination form for election as a member of the executive board may request that the association or its agent either:

(a) Send before the date of the election and at the association's expense, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner a candidate informational statement. The candidate informational statement:

(1) Must be no longer than a single, typed page;

(2) Must not contain any defamatory, libelous or profane information; and

(3) May be sent with the secret ballot mailed pursuant to subsection 11 or in a separate mailing; or

(b) To allow the candidate to communicate campaign material directly to the units' owners, provide to the candidate, in paper format at a cost not to exceed 25 cents per page for the first 10 pages and 10 cents per page thereafter, in the format of a compact disc at a cost of not more than \$5 or by electronic mail at no cost:

(1) A list of the mailing address of each unit, which must not include the names of the units' owners or the name of any tenant of a unit's owner; or

(2) If the members of the association are owners of time shares within a time share plan created pursuant to chapter 119A of NRS and:

(I) The voting rights of those owners are exercised by delegates or representatives pursuant to NRS 116.31105, the mailing address of the delegates or representatives.

(II) The voting rights of those owners are not exercised by delegates or representatives, the mailing address of the association established pursuant to NRS 119A.520. If the mailing address of the association is provided to the candidate pursuant to this sub-subparagraph, the association must send to each owner of a time share within the time share plan the campaign material provided by the candidate. If the campaign material will be sent by mail, the candidate who provides the campaign material must provide to the association a separate copy of the campaign material for each owner and must pay the actual costs of mailing before the campaign material is mailed. If the campaign material will be sent by electronic transmission, the candidate must provide to the association one copy of the campaign material in an electronic format.

↪ The information provided pursuant to this paragraph must not include the name of any unit's owner or any tenant of a unit's owner. If a candidate who makes a request for the information described in this paragraph fails or refuses to provide a written statement signed by the candidate which states that the candidate is making the request to allow the candidate to communicate campaign material directly to units' owners and that the candidate will not use the information for any other purpose, the association or its agent may refuse the request.

14. An association and its directors, officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection 13.

15. Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

16. If a person is not eligible to be a candidate for, or a member of, an executive board or an officer of the association pursuant to this section or any other provision of this chapter, the association:

(a) Must not place the name of the person on any ballot as a candidate; and

(b) Must prohibit the person from serving as a member of the executive board or as an officer of the association.

Sec. 2. NRS 116.31086 is hereby amended to read as follows:

116.31086 1. If an association solicits bids for an association project ~~to~~ ~~the~~ :

(a) The association must, whenever reasonably possible, solicit at least three bids if the association project is expected to cost:

(1) *In a common-interest community that consists of less than 1,000 units, \$2,500 or more; or*

(2) *In a common-interest community that consists of 1,000 or more units, \$5,000 or more; and*

(b) *The bids must be opened ~~and [the contents of each bid, including, without limitation, the titles of the project, the scope of each work and the bid amounts, must be]~~ read aloud ~~[in summary form]~~ during a meeting of the executive board ~~;~~ ;*

~~(c) The contents of each bid must be posted in summary form on the Internet website of the association, if one exists, and may be included in an official newsletter or other similar publication that is circulated to each unit's owner; and~~

~~(d) The members of the executive board must vote on the acceptance of a bid in accordance with the most recent edition of Robert's Rules of Order Newly Revised.~~

2. As used in this section, "association project" includes, without limitation, a project that involves the maintenance, repair, replacement or restoration of any part of the common elements or which involves the provision of *professional* services to the association ~~[-]~~ *, including, without limitation, accounting, engineering and legal services.*

Sec. 3. This act becomes effective on July 1, 2015.

Assemblywoman Dooling moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 120.

Bill read third time.

Remarks by Assemblymen Wheeler and Ellison.

ASSEMBLYMAN WHEELER:

Assembly Bill 120 clarifies that a pupil in a public school may express himself or herself in a manner consistent with rights guaranteed under the First and Fourteenth Amendments to the *United States Constitution* as long as such expressions are not disruptive of instructional time, used to bully or intimidate, or are directly or indirectly endorsed by the school. The bill also requires the board of trustees of each school district and the governing body of each charter school and university school for profoundly gifted pupils to adopt a grievance policy prescribing procedures for the resolution of a complaint that the rights of a pupil to free expression have been violated.

ASSEMBLYMAN ELLISON:

I rise in support of Assembly Bill 120. Contrary to the testimony of the opposition, A.B. 120 does not force religion into our schools. It simply gives religious students the same rights as other students. It would be great if we did not have to have legislative safeguards for constitutional rights, but sad experience says we must. I am voting yes, and I encourage all my colleagues to do the same.

Roll call on Assembly Bill No. 120:

YEAS—34.

NAYS—Araujo, Benitez-Thompson, Carlton, Joiner, Spiegel, Sprinkle, Swank, Thompson—8.

Assembly Bill No. 120 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 159.

Bill read third time.

Remarks by Assemblymen Wheeler and Kirkpatrick.

ASSEMBLYMAN WHEELER:

Assembly Bill 159 provides that a public body, in any solicitation, contract, or other document related to a contract for a public work, shall not require or prohibit a bidder or contractor from entering into or adhering to any agreement with one or more labor organizations in regard to a public work or discriminate against a bidder or contractor for entering or not entering into, or adhering or refusing to adhere to, any agreement with one or more labor organizations in regard to a public work.

Additionally, a public body shall not require the awardee of a grant, tax abatement, tax credit, or tax exemption to enter into any agreement with one or more labor organizations or discriminate against a bidder or contractor for entering into or not entering into an agreement with a labor organization in regard to a project.

The measure allows a public body to exempt a particular public work or a grant, tax abatement, tax credit, or tax exemption from those restrictions if the public body makes a finding, after notice and a hearing, that special circumstances require such an exemption to avert an imminent threat to public health or safety. Such a finding of special circumstances must not be based on the possibility or presence of certain labor disputes.

ASSEMBLYWOMAN KIRKPATRICK:

I rise in opposition to Assembly Bill 159. Local government and local agencies have successfully used Project Labor Agreements [PLAs] for over 18 years in our state. Current PLAs meet legal muster. In 1997, the Nevada Supreme Court found that the Southern Nevada Water Authority PLA was not discriminatory but was valid. It is a model that has been used since PLAs have been in effect in our state. During the hearing on the bill, in addition to the discussion that has been stated, many times it was stated that the bill was preempted by the National Labor Relations Act.

Passing this bill will be expensive with lots of litigation. In section 3 of the bill, subsection 2, I believe this unfairly puts a wrench into how we have done business in our state. It does not say that you can use PLAs, but it says that you cannot include them in requests for proposals, so to me that brings a lot of concern, especially for those of us in southern Nevada where we have used them on the airport, we have used them on the Convention Center, we have used them on the Southern Nevada Water Authority. Typically you do not get those type of folks every day who can put in the third intake for our water, or you do not get the person who can meet all the requirements to work on the airport.

I would urge our body to think carefully about how we do this. I am aware that the parties are still trying to work together, but I think this sets a bad precedent today for any work that may need to get done. Some of these projects that are currently in the pipeline need to continue to go forward, and I do not know how they do it based on this legislation. I would urge the body to vote against the bill.

Roll call on Assembly Bill No. 159:

YEAS—25.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Flores, Joiner, Kirkpatrick, Neal, Ohrenschall, Spiegel, Sprinkle, Swank, Thompson, Trowbridge—17.

Assembly Bill No. 159 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 195.

Bill read third time.

Remarks by Assemblyman Nelson.

ASSEMBLYMAN NELSON:

Assembly Bill 195 revises provisions governing the amount of a deficiency judgment to be awarded by a court after the foreclosure of a mortgage or a deed of trust. Specifically, the bill revises a provision of current law that limits the amount that a person who acquires the right to obtain a deficiency judgment from another person may obtain, such that it applies only to certain deficiency judgments awarded after the passage and approval of this bill involving enforcement of debts secured by certain residential properties and any debt secured by any other property if the documents evidencing the debt were fully executed on or before July 1, 2011. In such cases, the amount of the deficiency judgment must not exceed the amount of the consideration paid for that right.

Roll call on Assembly Bill No. 195:

YEAS—42.

NAYS—None.

Assembly Bill No. 195 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 283.

Bill read third time.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

Assembly Bill 283 establishes when state and local law enforcement agencies may recognize the exercise of law enforcement authority by certain federal employees. The measure authorizes state or local law enforcement agencies to enter into agreements with federal agencies concerning the enforcement of federal, state, and local laws. Further, the bill prohibits state and local government agencies from allowing a federal agency to access or use certain correctional and communication facilities and equipment without the express written consent of the appropriate responsible official. This measure specifically states that the sheriff of a county and his or her deputies are the primary law enforcement officers in the unincorporated areas of their county.

Roll call on Assembly Bill No. 283:

YEAS—40.

NAYS—Benitez-Thompson, Carlton—2.

Assembly Bill No. 283 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 267.

Bill read third time.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

Assembly Bill 267 eliminates the imposition of a sentence of life without the possibility of parole upon a person convicted of certain crimes who was less than 18 years of age at the time the crime was committed. The bill requires a court to consider the differences between juvenile and adult offenders in determining an appropriate sentence to be imposed and establishes certain minimum periods of incarceration that must be served by a prisoner who was sentenced as an adult

for certain offenses that were committed when he or she was less than 18 years of age before the prisoner is eligible for parole.

Roll call on Assembly Bill No. 267:

YEAS—42.

NAYS—None.

Assembly Bill No. 267 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 305.

Bill read third time.

Remarks by Assemblyman Oscarson.

ASSEMBLYMAN OSCARSON:

Assembly Bill 305 requires a health authority to adopt regulations to provide for the issuance of an endorsement on a permit that allows an emergency medical provider employed by the permit holder to provide community paramedicine services. A person or governmental entity is prohibited from providing such services without a valid permit.

“Community paramedicine services” is defined as health care services provided to certain patients who do not require emergency medical transportation in a manner integrated with local and regional health care and social service systems. Regulations must prescribe the training and qualifications necessary for an emergency medical technician, advanced emergency medical technician, paramedic, or volunteer employed by the holder of an endorsement, as well as the scope of services that may need to be provided. Lastly, permit holders must report certain data to the health authority, which is summarized and reported to the Legislative Committee on Health Care, on or before February 1 of each year.

Roll call on Assembly Bill No. 305:

YEAS—42.

NAYS—None.

Assembly Bill No. 305 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 225.

Bill read third time.

Remarks by Assemblywoman Neal.

ASSEMBLYWOMAN NEAL:

Assembly Bill 225 requires certain provisions to be included in a contract entered into by the Director of the Department of Corrections with a public or private entity that provides certain programs to offenders or parolees participating in a correctional or judicial program for reentry into the community. The entity must also provide to any offender or parolee who completes a program a certificate of completion and provide a copy to the Department. The effective dates is October 1, 2015.

Roll call on Assembly Bill No. 225:

YEAS—42.

NAYS—None.

Assembly Bill No. 225 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 178.

Bill read third time.

Remarks by Assemblyman Thompson.

ASSEMBLYMAN THOMPSON:

Assembly Bill 178 revises the statutory requirement that a pupil classified as a habitual disciplinary problem be suspended or expelled from school for at least one school semester. Instead, the bill provides that such a pupil may be suspended from school for up to one semester, depending upon the severity of the problem, or expelled from school under extraordinary circumstances as determined by the principal of the school.

In addition, the requirement that a school principal classify a pupil as a habitual disciplinary problem using certain criteria is revised to make the designation permissive versus mandatory. The measure also provides that only pupils who are expelled or who are suspended for a full semester or more need to enroll in an alternative education program.

Roll call on Assembly Bill No. 178:

YEAS—42.

NAYS—None.

Assembly Bill No. 178 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 212.

Bill read third time.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Assembly Bill 212 provides that a prosecution for sexual assault must be commenced within 20 years after the commission of the offense, instead of within 4 years. The bill will provide help to victims of tragic crimes of sexual assault. It will change the statute of limitations to 20 years to allow those individuals the time they need to come forward to the authorities and for justice to be served without the perpetrator of these terrible crimes avoiding justice on the technicalities.

I would like to thank my constituents in my district for having the courage to bring the bill forth. Also, thank you to my intern, Chandni Patel, for all the work she did on the bill.

Roll call on Assembly Bill No. 212:

YEAS—42.

NAYS—None.

Assembly Bill No. 212 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 51.

Bill read third time.

Remarks by Assemblyman Nelson.

ASSEMBLYMAN NELSON:

Assembly Bill 51 authorizes the Administrator of the Securities Division of the Office of the Secretary of State to adopt regulations concerning filing requirements, registration exemptions, and licensing requirements consistent with the federal Jumpstart Our Business Startups Act, including regulations relating to the creation and oversight of funding portals for the purchase of securities. This bill also provides for the doubling of certain civil penalties if a person commits certain securities violations against an older person or a vulnerable person.

Roll call on Assembly Bill No. 51:

YEAS—41.

NAYS—Seaman.

Assembly Bill No. 51 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 59.

Bill read third time.

Remarks by Assemblyman Silberkraus.

ASSEMBLYMAN SILBERKRAUS:

Assembly Bill 59 makes it mandatory for the Administrator of the State Public Works Division to lease and equip office rooms outside of state buildings for the use of state officers, departments, agencies, boards, and commissions whenever sufficient space cannot be provided within state buildings. The bill also authorizes the Administrator, upon request, to lease and equip office rooms outside of state buildings on behalf of state officers and employees of boards that are exempt from certain provisions governing state financial administration.

Roll call on Assembly Bill No. 59:

YEAS—42.

NAYS—None.

Assembly Bill No. 59 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 67.

Bill read third time.

Remarks by Assemblyman Jones.

ASSEMBLYMAN JONES:

Assembly Bill 67 relates to driving. The bill fixes two constitutional defects under existing state law identified by the Nevada Supreme Court. Specifically, the fix is related to rights associated with blood, breath, or urine tests of a defendant. Also, the bill provides that a person is not considered to be in physical control of a vehicle if a person is asleep inside the vehicle and the vehicle is lawfully parked—having to do with DUIs.

Lastly, comparable changes to existing law are made concerning the evidentiary tests of persons operating water vessels under power or sail on the waters of this state and persons who have physical possession of a firearm.

Roll call on Assembly Bill No. 67:

YEAS—39.

NAYS—Benitez-Thompson, Bustamante Adams, Neal—3.

Assembly Bill No. 67 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 88.

Bill read third time.

Remarks by Assemblywoman Joiner.

ASSEMBLYWOMAN JOINER:

Assembly Bill 88 makes various changes to the Charter of the City of Reno. It provides that the Majority Leader or the Minority Leader of the Senate or the Speaker or Minority Leader of the Assembly shall appoint members to the City of Reno Charter Committee, if there are no members of the respective legislative houses representing the residents of the City that belong to the majority or minority party, as applicable.

The bill also clarifies the procedures for filling a vacancy in an elective office by special election or appointment. Additionally, among other things, the bill clarifies that certain officers, employees, and other staff may be appointed by the City Manager, City Clerk, and City Attorney, respectively. It requires a person who is appointed as the City Manager to become an actual resident of the state not later than six months after the date of his or her appointment, authorizes the City Council to retain the services of special legal counsel rather than employ such counsel, and clarifies which employees are exempted from the City's Civil Service System.

Roll call on Assembly Bill No. 88:

YEAS—42.

NAYS—None.

Assembly Bill No. 88 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 89.

Bill read third time.

Remarks by Assemblyman Silberkraus.

ASSEMBLYMAN SILBERKRAUS:

Assembly Bill 89 generally enacts provisions relating to the employment of veterans and enacts certain other provisions relating generally to professionals. The measure requires the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to gather and report aggregate unemployment data concerning veterans to the Interagency Council on Veterans Affairs on a quarterly basis. The bill also requires a regulatory body to prepare and submit an annual report to the Council on the number of veterans who have applied for a license, who have been issued a license, or who have renewed a license.

Assembly Bill 89 explicitly allows private employers to adopt employment policies that provide a hiring preference on the basis of an applicant being a veteran or the spouse of a veteran, subject to review by the Nevada Equal Rights Commission. Additionally, A.B. 89 provides for an exemption from the driving skills test in order to receive a commercial driver's license for persons with military experience in driving such vehicles.

The bill authorizes a regulatory body to grant a license by endorsement to a qualified professional who is licensed in another state or territory and is also an active member, veteran, spouse of an active member, or surviving spouse of a veteran of the Armed Forces of the United States to practice his or her respective profession in this state. A qualified health care professional who receives a license by endorsement is entitled to at least a 50 percent reduction in the fee for the initial issuance of a license or an examination as a prerequisite to licensure. The measure also authorizes certain regulatory bodies to enter into a reciprocal agreement with the corresponding regulatory authority in another state or territory of the United States for the purpose of authorizing a licensee to practice concurrently in Nevada and another jurisdiction under certain circumstances. The bill's effective date is on July 1, 2015.

Roll call on Assembly Bill No. 89:

YEAS—42.

NAYS—None.

Assembly Bill No. 89 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 107.

Bill read third time.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

Assembly Bill 107 requires each school district, including each charter school authority, to include in its annual report of accountability certain information, including comparative statistics, concerning pupils who are eligible for and who receive free or reduced-price breakfasts and lunches. The bill also requires the report completed by the State Board of Education to include comparable information for Nevada on a statewide basis.

Roll call on Assembly Bill No. 107:

YEAS—41.

NAYS—Seaman.

Assembly Bill No. 107 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 115.

Bill read third time.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Assembly Bill 115 abolishes the Board of Hearing Aid Specialists and transfers the duties of the Board to a newly established Speech-Language Pathology, Audiology and Hearing Aid Dispensing Board. The measure makes other changes to the practice of these professions. First, it includes speech-language pathologists and audiologists in the definition of “provider of health care,” which subjects the two professions to various requirements of Nevada law including requirements for the retention of patient records, requirements for billing, standards for advertisements, and criminal penalties for acquiring certain debts. Next, the bill requires a speech-language pathologist to hold a current certificate of clinical competence issued by the American Speech-Language-Hearing Association or its successor organization. It also prescribes requirements concerning the practice of audiology or speech-language pathology using telemedicine.

The Sunset Subcommittee of this last interim, which I chaired, reviewed these two boards and recommended unanimously that these boards be combined. The Sunset Subcommittee was a recommendation from the SAGE [Spending and Government Efficiency] Commission to review all boards and commissions that are created by this body.

Roll call on Assembly Bill No. 115:

YEAS—30.

NAYS—Carlton, Dickman, Dooling, Ellison, Fiore, Jones, Moore, Seaman, Shelton, Stewart, Titus, Wheeler—12.

Assembly Bill No. 115 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 140.

Bill read third time.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

Assembly Bill 140 provides that the court cannot attach, levy, or seize, by or under any legal or equitable process, or make an assignment or otherwise divide any federal disability benefits awarded to a veteran for a disability connected to his or her military service for a disposition of community and joint tenancy property, an alimony award, or the support of a spouse unless there is a valid premarital agreement.

Roll call on Assembly Bill No. 140:

YEAS—42.

NAYS—None.

Assembly Bill No. 140 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 158.

Bill read third time.

Remarks by Assemblywoman Benitez-Thompson.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

Assembly Bill 158 authorizes a physician, osteopath, physician assistant, or advanced practice registered nurse to issue an order of auto-injectable epinephrine to an authorized entity and allows the entity to obtain such an order. An authorized entity is defined as any public or private entity, excluding a school, where allergens capable of causing anaphylaxis may be present on the premises. The auto-injectable epinephrine maintained by an entity can be provided by a trained owner, employee, or agent or another person trained in the administration of auto-injectable epinephrine.

Roll call on Assembly Bill No. 158:

YEAS—41.

NAYS—Sprinkle.

Assembly Bill No. 158 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 162.

Bill read third time.

Remarks by Assemblyman Munford.

ASSEMBLYMAN MUNFORD:

Assembly Bill 162 authorizes law enforcement agencies to require uniformed peace officers to wear a portable event recording device while on duty and requires certain law enforcement agencies to adopt policies and procedures relating to the use of portable event recording devices. The bill also establishes that any record made by a portable event recording device is a public record which may be requested only on a per-incident basis and inspected only at the location where the record is held if the record contains confidential information. The measure also exempts a portable event recording device worn by a peace officer from the definition of an “electronic, mechanical or other device” used to intercept wire or oral communication.

This is a bill to deal with cops having cameras when they are dealing with the use of force. It brings about transparency so people can really see what is going on. It is something that requires consciousness and awareness and understanding, so I urge your support on this bill.

Roll call on Assembly Bill No. 162:

YEAS—42.

NAYS—None.

Assembly Bill No. 162 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Assembly Bill No. 325 be declared an emergency measure under the *Constitution* and be placed at the top of the General File.

Motion carried.

Assemblyman Paul Anderson moved that Assembly Bills Nos. 170, 294, 362, and 375 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 325.

Bill read third time.

The following amendment was proposed by Assemblywoman Seaman:

Amendment No. 638.

AN ACT relating to private professional guardians; requiring licensing for persons engaged in the business of a private professional guardian; establishing the requirements for the licensing and operation of a private professional guardian company; amending provisions related to the appointment of a guardian under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the court appointment of a private professional guardian to act as a fiduciary for a person or estate, but does not require the private professional guardian to be licensed. (NRS 159.0595) This bill requires the licensing of persons engaging in the business of a private professional guardian and authorizes the Commissioner of Financial Institutions to adopt regulations relating to the licensing of those persons.

Sections 15-17 of this bill make it unlawful for a person to act as a private professional guardian without being licensed. **Sections 18-26** of this bill establish the requirements and application process to obtain a license to transact the business of a private professional guardian. **Section 28** of this bill sets forth requirements relating to the change of ownership or transfer of assets of a private professional guardian company. **Section 29** of this bill establishes the process for the renewal of a license. **Section 30** of this bill establishes the process for surrender of a license.

Section 31 of this bill requires a licensee to keep a principal office in this State. **Section 32** of this bill establishes procedures for the Commissioner to

approve an out-of-state office of a private professional guardian company. **Section 33** of this bill requires a licensee to maintain certain types and levels of bonds and insurance.

Section 35 of this bill establishes the rights and authority of a licensee. **Section 36** of this bill prohibits certain activities by a licensee. **Sections 37-41** of this bill establish requirements for accounting, reporting and auditing of a private professional guardian company and authorize the Commissioner or a designee to inspect certain records of a private professional guardian company.

Sections 42-46 of this bill establish procedures for the Commissioner to take administrative action against licensees. **Sections 47 and 48** of this bill establish procedures for handling a complaint against a private professional guardian company. **Sections 49 and 50** of this bill provide administrative and criminal penalties for violating certain provisions of this bill.

Existing law requires that, subject to certain exceptions, a person must be a resident of this State to be appointed as a guardian. (NRS 159.059) Existing law also requires a court to appoint as guardian for an incompetent the qualified person who is most suitable and is willing to serve as a guardian. (NRS 159.061) Sections 50.5 and 51.5 of this bill require a court to appoint as guardian for an incompetent a person who, regardless of whether the person is a resident of this State, has been requested to be appointed as guardian in a written instrument executed by the incompetent while he or she was competent, if that person is willing to serve and is otherwise determined to be qualified and suitable.

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 50, inclusive, of this act.

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

1. *There exists in this State a need, in order to provide for the protection of the public interest, to regulate persons engaged in the business of private professional guardians.*

2. *Persons engaging in the business of private professional guardians must be licensed and regulated in such a manner as to promote advantages and convenience for the public while protecting the public interest.*

3. *It is the purpose of this chapter to bring under public supervision persons who are engaged in or who desire to engage in the business of a private professional guardian and to ensure that there is established in this State an adequate, efficient and competitive private professional guardian service available to the courts and the public at large.*

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 11, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 4. *“Business of a private professional guardian” means the holding out by a person, through advertising, solicitation or other means, that the person is available to act for compensation as a private professional guardian.*

Sec. 5. *“Commissioner” means the Commissioner of Financial Institutions.*

Sec. 6. *“Director” means the Director of the Department of Business and Industry.*

Sec. 7. *“Division” means the Division of Financial Institutions of the Department of Business and Industry.*

Sec. 8. *“Fiduciary” means a person who has the power and authority to act for a beneficiary under circumstances requiring trust, good faith and honesty.*

Sec. 9. *“Private professional guardian” has the meaning ascribed to it in NRS 159.024.*

Sec. 10. *“Private professional guardian company” means a natural person or business entity, including, without limitation, a sole proprietorship, partnership, limited liability company or corporation, that is licensed pursuant to the provisions of this chapter to engage in the business of a private professional guardian, whether appointed by a court or hired by a private party.*

Sec. 11. *“Ward” has the meaning ascribed to it in NRS 159.027.*

Sec. 12. *This chapter does not apply to a person who:*

- 1. Is a public guardian or administrator appointed by the court;*
- 2. Is appointed as a fiduciary pursuant to NRS 662.245;*
- 3. Is acting in the performance of his or her duties as an attorney at law;*
- 4. Acts as a trustee under a deed of trust;*
- 5. Acts as a fiduciary under a court trust; or*
- 6. Acts as a fiduciary as an individual or a family member.*

Sec. 13. *The Commissioner shall administer and enforce the provisions of this chapter subject to the administrative supervision of the Director.*

Sec. 14. *The Commissioner may adopt regulations to carry out the provisions of this chapter.*

Sec. 15. *It is unlawful for any person to engage in the business of a private professional guardian without having a license issued by the Commissioner pursuant to this chapter.*

Sec. 16. *A person who does not have a license issued pursuant to this chapter shall not:*

- 1. Use the term “private professional guardian” or “guardianship services” as a part of his or her business name.*
- 2. Advertise or use any sign which includes the term “private professional guardian.”*

Sec. 17. 1. *The Commissioner shall conduct an investigation if he or she receives a verified complaint that an unlicensed person is engaging in an activity for which a license is required pursuant to this chapter.*

2. *If the Commissioner determines that an unlicensed person is engaged in an activity for which a license is required pursuant to this chapter, the Commissioner shall issue and serve on the person an order to cease and desist from engaging in the activity until such time as the person obtains a license issued by the Commissioner.*

3. *If a person upon whom an order to cease and desist is served pursuant to subsection 2 does not comply with the order within 30 days after the service of the order, the Commissioner shall, after providing to the person notice and an opportunity for a hearing:*

(a) Impose upon the person an administrative fine of \$10,000; or

(b) Enter into a written agreement with the person pursuant to which the person agrees to cease and desist from engaging in any activity in this State for which a license is required relating to the business of a private professional guardian and impose upon the person an administrative fine of not less than \$5,000 and not more than \$10,000.

4. *The Commissioner shall bring suit in the name and on behalf of the State of Nevada against a person upon whom an administrative fine is imposed pursuant to subsection 3 to recover the amount of the administrative fine if:*

(a) No petition for judicial review is filed pursuant to NRS 233B.130 and the fine remains unpaid for at least 90 days after notice of the imposition of the fine; or

(b) A petition for judicial review is filed pursuant to NRS 233B.130 and the fine remains unpaid for at least 90 days after the exhaustion of any right of appeal in the courts of this State resulting in a final determination that upholds the imposition of the fine.

5. *A person's liability for an administrative fine is in addition to any other penalty provided for in this chapter.*

Sec. 18. 1. *A person wishing to engage in the business of a private professional guardian in this State must file with the Commissioner an application on a form prescribed by the Commissioner, which must contain or be accompanied by such information as is required.*

2. *A nonrefundable fee of not more than \$750 must accompany the application. The applicant must also pay such reasonable additional expenses incurred in the process of investigation as the Commissioner deems necessary.*

3. *The application must contain:*

(a) The name of the applicant and the name under which the applicant does business or expects to do business, if different.

(b) The complete business and residence addresses of the applicant.

(c) The character of the business sought to be carried on.

(d) The address of any location where business will be transacted.

(e) In the case of a firm or partnership, the full name and residence address of each member or partner and the manager.

(f) In the case of a corporation or voluntary association, the name and residence address of each director and officer and the manager.

(g) A statement, under penalty of perjury that the applicant has complied with the provisions of NRS 159.059 and 159.0595.

(h) Any other information reasonably related to the applicant's qualifications for the license which the Commissioner determines to be necessary.

4. Each application for a license must have attached to it a financial statement showing the assets, liabilities and net worth of the applicant.

5. In addition to any other requirements, each applicant or member, partner, director, officer, manager or case manager of an applicant shall submit to the Commissioner a complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

6. If the applicant is a corporation or limited-liability company, the articles of incorporation or articles of organization must contain:

(a) The name adopted by the private professional guardian company, which must distinguish it from any other private professional guardian company formed or incorporated in this State or engaged in the business of a private professional guardian in this State; and

(b) The purpose for which it is formed.

7. The Commissioner shall deem an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is submitted to the Commissioner. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays the required fees.

8. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section, subject to the following limitations:

(a) An initial fee of not more than \$1,500 for a license to transact the business of a private professional guardian; and

(b) A fee of not more than \$300 for each branch office that is authorized by the Commissioner.

9. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.

Sec. 19. 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license to engage in the business of a private professional guardian shall include the social security number of the applicant or applicants in the application submitted to the Commissioner.

(b) An applicant for the issuance or renewal of a license to engage in the business of a private professional guardian shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Commissioner.

3. A license may not be issued or renewed by the Commissioner if the applicant:

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

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

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

Sec. 20. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to engage in the business of a private professional guardian shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

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

(b) A separate form prescribed by the Commissioner.

3. A license may not be issued or renewed by the Commissioner if the applicant:

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

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

public agency enforcing the order for the repayment of the amount owed pursuant to the order.

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

Sec. 21. 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license to engage in the business of a private professional guardian, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate a license that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 22. 1. Within 90 days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That each person who will serve as a sole proprietor, partner of a partnership, member of a limited-liability company or director or officer of a corporation, and any person acting in a managerial or case manager capacity, as applicable:

(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to engage in the business of a private professional guardian in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of those qualifications, including, without limitation, evidence that the applicant has passed an examination for private professional guardians specified by the Commissioner.

(2) Has not been convicted of, or entered a plea of guilty or nolo contendere to, a felony or any crime involving fraud, misrepresentation, material omission, misappropriation, conversion or moral turpitude.

(3) Has not made a false statement of material fact on the application.

(4) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license issued pursuant to the provisions of this chapter was suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.

(5) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license as a private professional guardian company which was issued by any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.

(6) Has not violated any of the provisions of this chapter or any regulations adopted pursuant thereto.

(b) That the financial status of each sole proprietor, partner, member or director and officer of the corporation and person acting in a managerial or case manager capacity indicates fiscal responsibility consistent with his or her position.

(c) That the name of the proposed business complies with all applicable statutes.

(d) That, except as otherwise provided in section 33 of this act, the initial surety bond is not less than the amount required by NRS 159.065.

2. In rendering a decision on an application for a license, the Commissioner shall consider, without limitation:

(a) The proposed markets to be served and, if they extend outside this State, any exceptional risk, examination or supervision concerns associated with those markets;

(b) Whether the proposed organizational and equity structure and the amount of initial equity or fidelity and surety bonds of the applicant appear adequate in relation to the proposed business and markets, including, without limitation, the average level of assets under guardianship projected for each of the first 3 years of operation; and

(c) Whether the applicant has planned suitable annual audits conducted by qualified outside auditors of its books and records and its fiduciary activities under applicable accounting rules and standards as well as suitable internal audits.

Sec. 23. 1. After conducting an investigation pursuant to section 22 of this act, if the Commissioner finds grounds for the denial of the application, the Commissioner shall provide to the applicant written notice of such grounds by personal service or certified mail.

2. *The applicant may cure any defect or deficiency in the application and, not more than 30 days after receipt of the notice pursuant to subsection 1, resubmit the application for approval.*

3. *If an application is not approved, the Commissioner shall provide to the applicant written notice of the denial by personal service or certified mail. The applicant may request a hearing before the Commissioner, but if no such application is made within 30 days after the entry of an order refusing a license to any person, the Commissioner shall enter a final order.*

4. *The decision of the Commissioner is final for the purposes of judicial review.*

Sec. 24. *The Commissioner shall approve the application for a license, keeping on file his or her findings of fact pertaining thereto, if the Commissioner finds that the applicant has met all the requirements of this chapter pertaining to the applicant's qualifications and application.*

Sec. 25. 1. *If the Commissioner approves an application pursuant to section 24 of this act and the applicant pays the required fees, the Commissioner shall issue to the applicant a license to engage in the business of a private professional guardian.*

2. *A license issued pursuant to subsection 1 must contain:*

(a) *The name of the licensee.*

(b) *The locations by street and number where the licensee is authorized to engage in business.*

(c) *The number and the date of issuance of the license.*

(d) *That the license is issued pursuant to this chapter and that the licensee is authorized to engage in the business of a private professional guardian under this chapter.*

(e) *The expiration date of July 1 of the next year.*

Sec. 26. 1. *The Commissioner shall maintain in the Office of the Commissioner, in a suitable record provided for that purpose, each application for a license and all bonds required to be filed pursuant to this chapter. The record must state the date of issuance or denial of the license and the date and nature of any action taken relating to an application.*

2. *Each license issued by the Commissioner must be sufficiently identified in the record.*

3. *Each renewal of a license must be recorded in the same manner as the original license, and the number of the preceding license issued must be recorded.*

Sec. 27. *Each license issued pursuant to this chapter must be conspicuously displayed in the place of business designated in the license.*

Sec. 28. 1. *A license issued pursuant to this chapter is not transferable or assignable, but upon the approval of the Commissioner and any applicable court of jurisdiction, a licensee may merge or consolidate with, or transfer its assets and control to, another person who holds a license pursuant to this chapter. In determining whether to grant the approval, the Commissioner may consider the factors set forth in section 22 of this act.*

2. *If a change in the control of a private professional guardian company occurs, the chief executive officer or managing member of the company shall report the change in control and the name of the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.*

3. *A private professional guardian company shall, within 5 business days after a change in the chief executive officer, managing member or a majority of the directors or managing directors of the company occurs, report the change to the Commissioner. The company shall include in its report to the Commissioner a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.*

4. *A person who intends to acquire control of a private professional guardian company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation pursuant to section 22 of this act to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to control the private professional guardian company in a manner which protects the interests of the general public.*

5. *The private professional guardian company of which the applicant intends to acquire control shall pay the nonrefundable cost of the investigation as required by the Commissioner. If the Commissioner denies the application, the Commissioner may prohibit or limit the applicant's participation in the business.*

6. *As used in this section, "control" means the possession, directly or indirectly, of the authority to direct or cause the direction of the management and policy of a private professional guardian company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, the company.*

Sec. 29. 1. *A private professional guardian company wishing to renew a license to engage in the business of a private professional guardian shall file in the Office of the Commissioner, on or before the June 1 of the year after the year of the original issuance of the license, an application, which must contain, without limitation, the number of the license being renewed. The application for renewal must be accompanied by a renewal fee of not more than \$1,500 and all information required to complete the application.*

2. *The Commissioner shall issue a renewal license to the applicant, which must be dated July 1 next ensuing the date of the application, in form and text similar to the original except that, in addition, the renewal must include the date and number of the earliest license issued.*

3. All requirements of this chapter with respect to original licenses and bonds apply to all renewal licenses and bonds, except as otherwise provided in this section.

4. The Commissioner shall refuse to renew a license if at the time of application a proceeding to revoke or suspend the license is pending.

5. The Commissioner shall adopt regulations establishing the amount of the fee required pursuant to this section. All money collected under the provisions of this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 30. If any private professional guardian company wishes to discontinue its business, the company shall furnish to the Commissioner satisfactory evidence of the release and discharge from all obligations which the company has assumed or which have been imposed by law. Thereafter, the Commissioner shall enter an order cancelling the license of the private professional guardian company.

Sec. 31. 1. A private professional guardian company licensed pursuant to this chapter shall maintain its principal office in this State.

2. To qualify as the principal office for the purposes of subsection 1, an office of the private professional guardian company must:

(a) Have a verifiable physical location in this State at which the private professional guardian company conducts such business operations in this State as are necessary to administer private professional guardianships in this State;

(b) Have available at the office a private professional guardian who is licensed pursuant to this chapter, a permanent resident of this State and at least 21 years of age;

(c) Have any license issued pursuant to this chapter conspicuously displayed;

(d) Have available at the office originals or true copies of all material business records and accounts of the private professional guardian company, which must be readily available to access and readily available for examination by the Division;

(e) Have available to the public written procedures for making claims against the surety bond required to be maintained pursuant to section 33 of this act;

(f) Have available all services to residents of this State which are consistent with the business plan of the private professional guardian company included with the application for a license; and

(g) Comply with any other requirements specified by the Commissioner.

Sec. 32. 1. It is unlawful for any person licensed pursuant to this chapter to engage in the business of a private professional guardian at any office outside this State without the prior approval of the Commissioner.

2. Before the Commissioner will approve a branch to be located outside this State, the private professional guardian must:

(a) Obtain from that state any required license as a private professional guardian; or

(b) Provide proof satisfactory to the Commissioner that the private professional guardian company has met all the requirements to engage in the business of a private professional guardian in that state pursuant to its laws, including, without limitation, written documentation from the appropriate court or state agency that the private professional guardian company is authorized to do business in that state.

3. For each branch location of a private professional guardian company organized under the laws of this State, and every branch location in this State of a foreign private professional guardian company authorized to do business in this State, a request for approval and licensing must be filed with the Commissioner on forms prescribed by the Commissioner. A nonrefundable fee of not more than \$500, as provided by the Commissioner, must accompany each request. In addition, a fee of not more than \$200, to be prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the request. Money collected pursuant to this section must be deposited in the Investigative Account for Financial Institutions created by NRS 232.545.

4. A foreign corporation or limited-liability company wishing to engage in the business of a private professional guardian in this State must use a name that distinguishes it from any other private professional guardian in this State.

Sec. 33. 1. The Commissioner may require a private professional guardian company to maintain equity, fidelity and surety bonds in amounts that are more than the minimum required initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the business plan of the private professional guardian or other information contained in the application, the Commissioner's investigation of the application or any examination of or filing by the private professional guardian company thereafter, including, without limitation, any examination before the opening of the business. In making such a determination, the Commissioner may consider, without limitation:

(a) The nature and type of business to be conducted by the private professional guardian company;

(b) The nature and liquidity of assets proposed to be held in the account of the private professional guardian company;

(c) The amount of fiduciary assets projected to be under the management or administration of the private professional guardian company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of the fiduciary duties and degree of discretion proposed to be undertaken by the private professional guardian company;

(f) The competence and experience of the proposed management of the private professional guardian company;

- (g) The extent and adequacy of proposed internal controls;*
- (h) The proposed presence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;*
- (i) The reasonableness of business plans for retaining or acquiring additional equity capital;*
- (j) The adequacy of fidelity and surety bonds and any additional insurance proposed to be obtained by the private professional guardian company for the purpose of protecting its fiduciary assets;*
- (k) The success of the private professional guardian company in achieving the financial projections submitted with its application for a license; and*
- (l) The fulfillment by the private professional guardian company of its representations and its descriptions of its business structures and methods and management set forth in its application for a license.*

2. The director or manager of a private professional guardian company shall require fidelity bonds in the amount of at least \$25,000 on the sole proprietor or each active officer, manager, member acting in a managerial or case manager capacity and employee, regardless of whether the person receives a salary or other compensation from the private professional guardian company, to indemnify the company against loss due to any dishonest, fraudulent or criminal act or omission by a person upon whom a bond is required pursuant to this section who acts alone or in combination with any other person. A bond required pursuant to this section may be in any form and may be paid for by the private professional guardian company.

3. A private professional guardian company shall obtain suitable insurance against burglary, robbery, theft and other hazards to which it may be exposed in the operation of its business.

4. A private professional guardian company shall obtain suitable surety bonds in accordance with NRS 159.065, as applicable.

5. The surety bond obtained pursuant to subsection 4 must be in a form approved by a court of competent jurisdiction and the Division and conditioned that the applicant conduct his or her business in accordance with the requirements of this chapter. The bond must be made and executed by the principal and a surety company authorized to write bonds in this State.

6. A private professional guardian company shall at least annually prescribe the amount or penal sum of the bonds or policies of the company and designate the sureties and underwriters thereof, after considering all known elements and factors constituting a risk or hazard. The action must be recorded in the minutes kept by the private professional guardian company and reported to the Commissioner.

7. The bond must cover all matters placed with the private professional guardian company during the term of the license or a renewal thereof.

8. An action may not be brought upon any bond after 2 years from the revocation or expiration of the license.

9. *After 2 years, all liability of the surety or sureties upon the bond ceases if no action is commenced upon the bond.*

Sec. 34. *The Commissioner shall revoke the license of a private professional guardian company:*

1. *If the private professional guardian company fails to open for business within 6 months after the date the license was issued, or within an additional 6-month extension granted by the Commissioner upon written application and for good cause shown; or*

2. *If the private professional guardian company fails for more than 30 consecutive days to maintain regular business hours or otherwise conduct the business of a private professional guardian.*

Sec. 35. *Each private professional guardian company which is licensed pursuant to this chapter may, in the conduct of its business activities, within and outside this State, as applicable:*

1. *Act under the order or appointment of any court as guardian.*

2. *Accept and execute any activities and duties relating to the business of a private professional guardian as permitted by any law.*

3. *Exercise the powers of a corporation, partnership or limited-liability company organized or qualified as a foreign corporation, partnership or limited-liability company under the laws of this State and any incidental powers that are reasonably necessary to enable it to exercise, in accordance with commonly accepted customs and usages, a power conferred by this chapter.*

4. *Perform any act authorized by this chapter and any other applicable laws of this State.*

Sec. 36. 1. *The fiduciary relationship which exists between a private professional guardian and the ward of the private professional guardian may not be used for the private gain of the guardian other than the remuneration for fees and expenses. A private professional guardian may not incur any obligation on behalf of the guardianship that conflicts with the discharge of the duties of the private professional guardian.*

2. *Unless prior approval is obtained from a court of competent jurisdiction, a private professional guardian shall not:*

(a) *Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship.*

(b) *Acquire an ownership, possessory, security or other pecuniary interest adverse to the ward.*

(c) *Be knowingly designated as a beneficiary on any life insurance policy, pension or benefit plan of the ward unless such designation was validly made by the ward before the adjudication of the person's incapacity.*

(d) *Directly or indirectly purchase, rent, lease or sell any property or services from or to any business entity in which the private professional guardian, or the spouse or relative of the guardian, is an officer, partner, director, shareholder or proprietor or in which such a person has any financial interest.*

3. Any action taken by a private professional guardian which is prohibited by this section may be voided during the term of the guardianship or by the personal representative of the ward's estate. The private professional guardian is subject to removal and to imposition of personal liability through a proceeding for discharge, in addition to any other remedies otherwise available.

4. A court shall not appoint a private professional guardian that is not licensed pursuant to this chapter as the guardian of a person or estate. The court must review each guardianship involving a private professional guardian on the anniversary date of the appointment of the private professional guardian. If a private professional guardian does not hold a current license, the court must replace the guardian until such time as the private professional guardian obtains the necessary license.

5. The provisions of NRS 159.076 regarding summary administration do not apply to a private professional guardian.

6. A licensee shall file any report required by the court in a timely manner.

Sec. 37. 1. Except as otherwise provided in NRS 159.076, a licensee shall maintain a separate trust account for each ward into which all money received for the benefit of the ward must be deposited. Each trust account must be maintained in an insured bank or credit union located in this State, be held in a name which is sufficient to distinguish it from the personal or general checking account of the licensee and be designated as a trust account. Each trust account must at all times account for all money received for the benefit of the ward and account for all money dispersed for the benefit of the ward, and no disbursement may be made from the account except for court authorized expenditures.

2. Each licensee shall keep a record of all money deposited in each trust account maintained for a ward, which must clearly indicate the date and from whom the money was received, the date the money was deposited, the dates of withdrawals of money and other pertinent information concerning the transactions. Records kept pursuant to this subsection must be maintained for at least 6 years after the completion of the last transaction concerning the account. The records must be maintained at the premises in this State at which the licensee is authorized to conduct business.

3. The Commissioner or his or her designee shall conduct an examination of the trust accounts and records relating to wards of each private professional guardian company licensed pursuant to this chapter at least once each year.

4. During the first year a private professional guardian is licensed in this State, the Commissioner or his or her designee may conduct any examinations deemed necessary to ensure compliance with the provisions of this chapter and chapter 159 of NRS.

5. If there is evidence that a private professional guardian company has violated a provision of this chapter or chapter 159 of NRS, the Commissioner

or his or her designee may conduct additional examinations to determine whether a violation has occurred.

6. Each licensee shall authorize the Commissioner or his or her designee to examine all books, records, papers and effects of the private professional guardian company.

7. If the Commissioner determines that the records of a licensee are not maintained in accordance with subsections 1 and 2, the Commissioner may require the licensee to submit, within 60 days, an audited financial statement prepared from the records of the licensee by a certified public accountant who holds a certificate to engage in the practice of public accounting in this State. The Commissioner may grant a reasonable extension of time for the submission of the financial statement if an extension is requested before the statement is due.

8. Upon the request of the Division, a licensee must provide to the Division copies of any documents reviewed during an examination conducted by the Commissioner or his or her designee pursuant to subsection 4, 5 or 6. If the copies are not provided, the Commissioner may subpoena the documents.

9. For each examination of the books, papers, records and effects of a private professional guardian company that is required or authorized pursuant to this chapter, the Commissioner shall charge and collect from the private professional guardian company a fee for conducting the examination and preparing a report of the examination based upon the rate established by regulation pursuant to NRS 658.101. Failure to pay the fee within 30 days after receipt of the bill is grounds for revoking the license of the private professional guardian company.

10. All money collected under this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 38. 1. After an examination is conducted pursuant to section 37 of this act, the person who conducted the examination shall prepare a written report of the results of the examination which must be signed by the Commissioner or his or her designee.

2. The written report must contain a true and detailed statement of the financial condition of the private professional guardian company and, if applicable, a full statement of any violations of the provisions of this chapter and chapter 159 of NRS.

Sec. 39. 1. The Commissioner shall provide a copy of a report prepared pursuant to section 38 of this act to the president or secretary of the board of directors of the private professional guardian company if the company is a corporation, or to a manager or owner of the private professional guardian company if the company is not a corporation, and may make a copy available to each member of the board of directors or each manager or owner, as applicable. If, in the judgment of the Commissioner, the report discloses any violation of the provisions of this chapter or chapter 159 of NRS committed by the private professional guardian company, or if

it appears from the report that there are certain conditions existing which should be corrected by the private professional guardian company, the Commissioner may, in writing, call the matter to the attention of each member of the board of directors or each manager or owner, with instructions to correct the condition.

2. Upon the preparation of the report as provided in section 38 of this act, the Commissioner shall also serve a copy thereof to the court having jurisdiction of each ward of the private professional guardian company.

Sec. 40. 1. The Commissioner may require a licensee to submit an annual financial statement or an audited financial statement prepared by an independent certified public accountant licensed to do business in this State, dependent upon the size and complexity of the private professional guardian company.

2. If applicable, on or before the fourth Monday in January of each year, each licensee shall submit to the Commissioner the stock ledger of stockholders of the corporation required to be maintained pursuant to paragraph (c) of subsection 1 of NRS 78.105 or the list of each member and manager required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241, verified by the president or a manager, as appropriate.

3. A list of each member and manager submitted pursuant to subsection 2 must include the percentage of each member's interest in the company, in addition to the requirements set forth in NRS 86.241.

4. If a licensee fails to submit the ledger or list required pursuant to this section within the prescribed period, the Commissioner may impose and collect a fee of not more than \$10 for each day the report is late.

5. The Commissioner shall adopt regulations establishing the amount of the fee that may be imposed pursuant to this section.

Sec. 41. Except as otherwise provided in NRS 239.0115, any application and personal or financial records submitted to the Division pursuant to the provisions of this chapter and any personal or financial records or other documents obtained by the Division pursuant to an examination conducted by the Commissioner or his or her designee or in response to a subpoena are confidential and may be disclosed only to:

1. The Division, any authorized employee or representative of the Division and any state or federal agency investigating the activities covered under the provisions of this chapter; and

2. Any person if the Commissioner, in his or her discretion, determines that the interests of the public that would be protected by disclosure outweigh the interest of any person in the confidential information not being disclosed.

Sec. 42. 1. The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any private professional guardian company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the private professional guardian company, or who persistently

violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.

2. An officer, director, manager or employee of a private professional guardian company who is required to be removed from office pursuant to subsection 1 may appeal his or her removal by filing a written request for a hearing with the Commissioner within 10 days after the effective date of his or her removal. The Commissioner shall conduct the hearing after providing at least 5 days' written notice to the private professional guardian company and the officer, director, manager or employee who is appealing his or her removal from office. Within 5 days after the conclusion of the hearing, the Commissioner shall enter an order affirming or disaffirming the removal of the person from office. An order of the Commissioner entered pursuant to this subsection is final for the purposes of judicial review.

Sec. 43. 1. The Commissioner may take administrative action against a licensee or initiate proceedings as provided in section 46 of this act to take possession of the business and property of any private professional guardian company if the company:

- (a) Has violated this chapter or any other state or federal laws applicable to the business of a private professional guardian.*
- (b) Is conducting the business in an unauthorized or unsafe manner.*
- (c) Is in an unsafe or unsound condition to transact business.*
- (d) Has an impairment of the surety bonds held by the company.*
- (e) Has an impairment of the fidelity bonds held by the company.*
- (f) Has become insolvent.*
- (g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.*
- (h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.*
- (i) Has refused to provide copies to the Division upon request, and in cooperation with any investigation, inspection or examination, of any and all documents reviewed by the Division during any such investigation, inspection or examination.*
- (j) Has failed to pay any state or local taxes as required.*
- (k) Has materially and willfully breached its fiduciary duties to a ward.*
- (l) Has failed to properly disclose all fees, interest and other charges to the court and the public.*
- (m) Has willfully engaged in material conflicts of interest regarding a ward.*
- (n) Has made intentional material misrepresentations regarding any aspect of the services performed or proposed to be performed by the private professional guardian company.*

2. The Commissioner also may initiate such proceedings to take possession of the business and property of any private professional guardian company if an officer, partner, member or sole proprietor of the private

professional guardian company refuses to be examined upon oath regarding its affairs.

Sec. 44. 1. If the Commissioner has reason to believe that grounds for the revocation or suspension of a license exist, the Commissioner shall give at least 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

2. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;

(b) The licensee has violated any provision of this chapter or any regulation adopted pursuant thereto or any lawful order of the Commissioner;

(c) The licensee has failed to pay any applicable state or local tax as required;

(d) Any fact or condition exists which would have justified the Commissioner in denying the original application for a license pursuant to the provisions of this chapter; or

(e) The licensee:

(1) Failed to open an office for the conduct of the business authorized by his or her license within 180 days after the date the license was issued; or

(2) Has failed to remain open for the conduct of the business for a period of 30 consecutive days without good cause therefor.

4. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

Sec. 45. If the Commissioner finds that probable cause for the revocation of any license exists and that the public interest requires the immediate suspension of the license pending an investigation, the Commissioner may, upon 5 days' written notice offering the opportunity for a hearing, enter an order suspending the license for a period of not more than 20 days, pending a hearing upon the revocation of the license unless the opportunity for a hearing is waived by the licensee.

Sec. 46. 1. If the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, the Commissioner may, in addition to any action provided for in this chapter and chapter 233B of NRS and without prejudice thereto,

enter an order requiring the person to cease and desist or to refrain from such violation.

2. The Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, irreparable harm and lack of an adequate remedy at law will be presumed and an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper. The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the issuance ex parte of a temporary restraining order.

3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the person, including books, papers, documents and records pertaining thereto, or so much thereof as a court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business, whether such books, papers, documents and records are in the possession of the person, a registered agent acting on behalf of the person or any other person. If a receiver is appointed and qualified, the receiver has such powers and duties relating to the custody, collection, administration, winding up and liquidation of such property and business as may be conferred upon the receiver by the court.

4. If a receiver is appointed pursuant to subsection 3, the receiver shall remit to the owners, members or shareholders of the private professional guardian company any amount of equity of the private professional guardian company remaining after the discharge of the liabilities and payment of the normal, prudent and reasonable expenses of the receivership.

Sec. 47. 1. Upon the filing with the Commissioner of a verified complaint against a private professional guardian company, the Commissioner shall investigate the alleged violation of the provisions of this chapter.

2. If the Commissioner determines that a complaint filed pursuant to subsection 1 warrants further action, the Commissioner shall send a copy of the complaint and notice of the date set for an informal hearing to the subject of the complaint and the Attorney General.

3. The Commissioner may require the private professional guardian company that is the subject of a complaint to file a verified answer to the complaint within 10 days after receipt of the complaint unless, for good cause shown, the Commissioner extends the time required for filing an answer for a period not to exceed 60 days.

4. If at the hearing the complaint is not explained to the satisfaction of the Commissioner, the Commissioner may take such action against the private professional guardian company as authorized by the provisions of this chapter.

Sec. 48. 1. *Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.*

2. *The complaint or other documents filed by the Commissioner to initiate disciplinary action and all documents and information considered by the Commissioner when determining whether to impose discipline are public records.*

Sec. 49. 1. *In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 per violation upon a person who violates any provision of this chapter or any regulation adopted pursuant thereto.*

2. *The maximum total fine that the Commissioner may impose on any person pursuant to this section with respect to the same or similar actions or series of actions which constitute the violations must not exceed the greater of \$250,000 or 125 percent of the monetary value of all losses incurred by the private professional guardian company and its wards as the direct or indirect result of such violations.*

Sec. 50. 1. *A licensee who knowingly or willfully neglects to perform any act or duty required by this chapter or other applicable law, or who knowingly or willfully fails to satisfy any material lawful requirement made by the Commissioner is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

2. *If no other punishment is otherwise provided by law, a person who violates any provision of this chapter is guilty of a gross misdemeanor.*

Sec. 50.5. NRS 159.059 is hereby amended to read as follows:

159.059 Except as otherwise provided in NRS 159.0595, any qualified person or entity that the court finds suitable may serve as a guardian. A person is not qualified to serve as a guardian who:

1. Is an incompetent.
2. Is a minor.
3. Has been convicted of a felony, unless the court determines that such conviction should not disqualify the person from serving as the guardian of the ward.

4. Has been suspended for misconduct or disbarred from:

- (a) The practice of law;
- (b) The practice of accounting; or
- (c) Any other profession which:

- (1) Involves or may involve the management or sale of money, investments, securities or real property; and

- (2) Requires licensure in this State or any other state,
 ➤ during the period of the suspension or disbarment.

5. ~~Has~~ **Except as otherwise provided in subsection 2 of NRS 159.061, is**
 a nonresident of this State and:

(a) Has not associated as a coguardian, a resident of this State or a banking corporation whose principal place of business is in this State; and

(b) Is not a petitioner in the guardianship proceeding.

6. Has been judicially determined, by clear and convincing evidence, to have committed abuse, neglect or exploitation of a child, spouse, parent or other adult, unless the court finds that it is in the best interests of the ward to appoint the person as the guardian of the ward.

Sec. 51. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. A private professional guardian, if a person, must be qualified to serve as a guardian pursuant to NRS 159.059 and must be a certified guardian.

2. A private professional guardian, if an entity, must be qualified to serve as a guardian pursuant to NRS 159.059 and must have a certified guardian involved in the day-to-day operation or management of the entity.

3. A private professional guardian ~~{shall, at his or her own cost and expense:~~

~~—(a) Undergo a background investigation which requires the submission of a complete set of his or her fingerprints to the Central Repository for Nevada Records of Criminal History and to the Federal Bureau of Investigation for their respective reports; and~~

~~—(b) Present the results of the background investigation to the court upon request.}, **regardless of whether the private professional guardian is a person or an entity, must be licensed pursuant to section 18 of this act.**~~

4. As used in this section:

(a) “Certified guardian” means a person who is certified by the Center for Guardianship Certification or any successor organization.

(b) “Entity” includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

(c) “Person” means a natural person.

Sec. 51.5. NRS 159.061 is hereby amended to read as follows:

159.061 1. The parents of a minor, or either parent, if qualified and suitable, are preferred over all others for appointment as guardian for the minor. The appointment of a parent as a guardian of the person must not conflict with a valid order for custody of the minor. In determining whether the parents of a minor, or either parent, is qualified and suitable, the court shall consider, without limitation:

(a) Which parent has physical custody of the minor;

(b) The ability of the parents or parent to provide for the basic needs of the child, including, without limitation, food, shelter, clothing and medical care;

(c) Whether the parents or parent has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS; and

(d) Whether the parents or parent has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the exploitation of a child.

2. *The court shall appoint as guardian for an incompetent any person, regardless of whether the person is a resident of this State, who has been requested to be appointed as guardian in a written instrument executed by the incompetent, while competent, if the person is willing to serve and is otherwise qualified and suitable*

3. Subject to the preference set forth in subsection 1, ~~1-1~~ and except as otherwise provided in subsection 2, the court shall appoint as guardian for an incompetent, a person of limited capacity or minor the qualified person who is most suitable and is willing to serve.

~~1-1~~ 4. In determining who is most suitable, the court shall give consideration, among other factors, to:

(a) ~~Any request for the appointment as guardian for an incompetent contained in a written instrument executed by the incompetent while competent.~~

~~(b)~~ Any nomination of a guardian for an incompetent, minor or person of limited capacity contained in a will or other written instrument executed by a parent or spouse of the proposed ward.

~~(c)~~ (b) Any request for the appointment as guardian for a minor 14 years of age or older made by the minor.

~~(d)~~ (c) The relationship by blood, adoption or marriage of the proposed guardian to the proposed ward. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider relatives in the following order of preference:

- (1) Spouse.
- (2) Adult child.
- (3) Parent.
- (4) Adult sibling.
- (5) Grandparent or adult grandchild.
- (6) Uncle, aunt, adult niece or adult nephew.

~~(e)~~ (d) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.

~~(f)~~ (e) Any request for the appointment of any other interested person that the court deems appropriate.

~~4-1~~ 5. If the court finds that there is no suitable person to appoint as guardian pursuant to subsection ~~1-1~~ 4, the court may appoint as guardian:

- (a) The public guardian of the county where the ward resides, if:
 - (1) There is a public guardian in the county where the ward resides; and
 - (2) The proposed ward qualifies for a public guardian pursuant to chapter 253 of NRS;

(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the ward will be served appropriately by the appointment of a private fiduciary; or

(c) A private professional guardian who meets the requirements of NRS 159.0595.

Sec. 52. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180,

645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and **sections 40 and 47 of this act and** unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 53. 1. This section and sections 2 to 19, inclusive, and 21 to 52, inclusive, of this act become effective:

(a) Upon passage and approval for the purposes of adopting any regulations and performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On January 1, 2016, for all other purposes.

2. Section 19 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
➔ are repealed by the Congress of the United States.

3. Section 20 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
➔ are repealed by the Congress of the United States.

4. Sections 20 and 21 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
➔ are repealed by the Congress of the United States.

Assemblywoman Seaman moved the adoption of the amendment.

Remarks by Assemblywoman Seaman.

ASSEMBLYWOMAN SEAMAN:

Existing law requires that, subject to certain exceptions, a person must be a resident of this state to be appointed as a guardian. Existing law requires a court to appoint as guardian for an incompetent the qualified person who is most suitable and is willing to serve as guardian. Sections 50.5 and 51.5 of this bill require a court to appoint as guardian for an incompetent a person who, regardless of whether the person is a resident of this state, has been requested to be appointed as guardian in a written instrument executed by the incompetent while he or she was competent if that person is willing to serve and is otherwise determined to be qualified and suitable.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 166.

Bill read third time.

Remarks by Assemblywoman Benitez-Thompson.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

Assembly Bill 166 establishes the State Seal of Biliteracy Program. The program provides that a special seal denoting biliteracy be affixed to the high school diploma or a transcript of a pupil who has achieved a high level of proficiency in one or more language in addition to English.

Roll call on Assembly Bill No. 166:

YEAS—37.

NAYS—Dickman, Ellison, Moore, Seaman, Titus—5.

Assembly Bill No. 166 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 8:08 p.m.

ASSEMBLY IN SESSION

At 8:11 p.m.

Mr. Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 172.

Bill read third time.

Remarks by Assemblymen O'Neill, Carrillo, Shelton, Kirkpatrick, and Ellison.

ASSEMBLYMAN O'NEILL:

Assembly Bill 172 increases the threshold for prevailing wage requirements on the cost of public works projects from \$100,000 to \$350,000 and requires the Labor Commissioner to adjust the prevailing wage threshold every five years based on inflation, beginning on or before January 1, 2020. The bill also increases from 5 percent to 7.5 percent the bidding preference a contractor, applicant to serve as a construction manager at risk, or design-build team may qualify to receive if certain conditions are met, including the employment of a specified percentage of Nevada employees.

ASSEMBLYMAN CARRILLO:

I rise in opposition to Assembly Bill 172. Even though it has been amended, this bill falls short of ensuring that our middle class is kept at a wage at which they can support their families. I urge the body to vote no to prevent further weakening of the backbone of Nevada, our middle class.

ASSEMBLYWOMAN SHELTON:

I stand in support of Assembly Bill 172. This bill will provide for a substantial savings to our local and state governments by increasing projects that are eligible for prevailing wage to \$350,000. These savings will give communities the ability to build more roads, parks, recreation centers, and other public works projects. In addition, A.B. 172 will increase the in-state bidder preference from 5 percent to 7.5 percent. This change gives companies a much stronger incentive to hire Nevadans as workers, which will benefit not just local communities, but the entire state. I will be voting yes on A.B. 172.

ASSEMBLYWOMAN KIRKPATRICK:

I rise in opposition to Assembly Bill 172. I see that my colleagues have tried to amend this bill, but I want to remind the body of a few things. I have been in this building a very long time.

We have had many prevailing wage discussions. I do not know that there was actually as much discussion on this one as there has been in the past. I am very concerned about the 7 percent. We have talked about that before, and here we are bringing it up today. It has been 5 percent since it was instituted, so that we could have something that would stand up in courts. Other states are 5 percent.

I am glad folks recognize that we want to give a bidder's preference to Nevada businesses. There are well over 790 businesses that will be affected by the threshold in this bill. I think there is some room for improvement—there is no question there—but 790 small contractors will be affected by this because it will take them out of the game. It will go across the state. It will encourage others to come to our state.

We had this discussion on other bills the first week of session. I do not remember being invited to any of the discussions to look at this threshold. The 7 percent is a bad move on our part, and I will be voting in opposition. I implore the rest of you to vote in opposition, because you could jeopardize Nevada contractors for a very long time.

ASSEMBLYMAN ELLISON:

I rise in support of Assembly Bill 172, which raises the threshold of prevailing wage projects from \$100,000 to \$350,000. By increasing the limits, this will contribute to savings in the cost of public works projects, while continuing to provide good paying jobs for Nevada's working families. Furthermore, A.B. 172 provides strong incentives to hire Nevada workers by increasing the in-state bidder preference by 50 percent. This bill will make sure that we can put more families back to work by benefiting Nevada businesses.

For ten years, I have been trying to get that threshold up to a point where we could get some of these small projects done and put the small guys to work in the rural counties. I think this is important. I am sure this bill will get amended on the other side, but this is a start. I encourage everybody to vote yes on this bill.

Roll call on Assembly Bill No. 172:

YEAS—25.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Flores, Joiner, Kirkpatrick, Munford, Neal, Ohrenschall, Spiegel, Sprinkle, Swank, Thompson—17.

Assembly Bill No. 172 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 173.

Bill read third time.

Remarks by Assemblyman Hickey.

ASSEMBLYMAN HICKEY:

Assembly Bill 173 exempts certain professionals who provide information security services from licensure as private investigators. The Private Investigator's Licensing Board agreed to the changes that were made to Assembly Bill 173, and I urge your support of it.

Roll call on Assembly Bill No. 173:

YEAS—42.

NAYS—None.

Assembly Bill No. 173 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 176.

Bill read third time.

Remarks by Assemblyman Sprinkle.

ASSEMBLYMAN SPRINKLE:

Assembly Bill 176 requires the regional transportation commission in a county whose population is 700,000 or more, currently Clark County, to establish and administer the Nevada Yellow Dot Program in coordination with each regional transportation commission in this state. The bill also requires this regional transportation commission to disseminate information about the program to the public and to public safety agencies. The Commission is authorized to obtain grants or sponsorships for the program, and first responders are immune from civil liability for damages as a result of any act or omission they take relating to an emergency in connection with the program.

Roll call on Assembly Bill No. 176:

YEAS—42.

NAYS—None.

Assembly Bill No. 176 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 224.

Bill read third time.

Remarks by Assemblyman O'Neill.

ASSEMBLYMAN O'NEILL:

Assembly Bill 224 requires that the Central Repository for Nevada Records of Criminal History, depending on the purpose of a particular request for background and personal history of a person, must receive the submission of a complete set of fingerprints, one or more fingerprints, or other biometric identifier in order to request and receive such information from the Federal Bureau of Investigation. "Biometric identifier" is defined in this bill as a fingerprint, palm print, scar, bodily mark, tattoo, voiceprint, facial image, retina image, or iris image of a person. In addition, the Central Repository is required to adopt certain regulations governing biometric identifiers and the information and data derived therefrom. This bill is effective upon passage and approval.

Roll call on Assembly Bill No. 224:

YEAS—39.

NAYS—Fiore, Moore, Shelton—3.

Assembly Bill No. 224 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 228.

Bill read third time.

Remarks by Assemblywomen Seaman, Carlton, and Fiore.

ASSEMBLYWOMAN SEAMAN:

Assembly Bill 228 specifies that the "single document rule" does not apply to the sale of a motor vehicle under certain circumstances. The bill also makes the use of electronic tracking or starter interrupt devices a deceptive trade practice unless certain disclosures are provided to a consumer. It prohibits a party financing a motor vehicle from requiring a buyer or lessor to agree to the installation of an electronic tracking device as a condition of the financing contract. The measure prohibits the use of starter interrupt technology if a motor vehicle can be disabled while

the engine is running, the technology causes an audible warning that lasts longer than 20 seconds, and the consumer's payment is unpaid for less than ten days for the first instance of late payment or less than five days for any subsequent payment or default under the contract. The bill is effective upon passage and approval for the purposes of adopting regulations or performing preparatory administrative tasks, and on October 1, 2015, for all other purposes.

ASSEMBLYWOMAN CARLTON:

I rise in opposition to Assembly Bill 228. There are a lot of things wrong with this bill, but the biggest thing that is wrong with it is it takes the 30 days that the person now has and brings it back to 10 days. Let us take a look at people's finances. If you get paid every two weeks, where does that put you in that 10 days? They are going to turn your car off and you are not going to be able to go to work to get your paycheck. It is a very bad deal for the consumer.

ASSEMBLYWOMAN FIORE:

I have looked again at the amendments to Assembly Bill 228, and I have to concur with my colleague from Assembly District 14. I am going to be voting no on this, and I urge my team to vote no as well.

Roll call on Assembly Bill No. 228:

YEAS—17.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Dooling, Ellison, Fiore, Flores, Joiner, Jones, Kirkpatrick, Moore, Munford, Neal, Ohrenschall, Shelton, Silberkraus, Spiegel, Sprinkle, Swank, Thompson, Wheeler—25.

Assembly Bill No. 228 having failed to receive a constitutional majority, Mr. Speaker declared it lost.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Wheeler moved that the Assembly reconsider the action whereby Assembly Bill No. 228 was refused passage.

Motion carried.

Mr. Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 8:27 p.m.

ASSEMBLY IN SESSION

At 8:33 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblyman Wheeler moved that Assembly Bill No. 228 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 262.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Assembly Bill 262 provides that a motion to withdraw a plea of guilty, guilty but mentally ill, or nolo contendere that is made after sentence is imposed or imposition of sentence is suspended

is a remedy which is incident to the proceedings in the trial court. The bill applies to such pleas pending on or after June 12, 2014.

The motion to withdraw a guilty plea has been in the *Nevada Revised Statutes* since the 1960s. It was affirmed by the Nevada Supreme Court in 2000 in the decision *Hart v. State*. Last year, in the decision *Harris v. State*, the Nevada Supreme Court overruled its earlier decision and said that it was no longer a post-conviction remedy for people who were trying to correct a manifest injustice. This will restore a right that has been on our books for over 30 years. It passed out of your Judiciary Committee unanimously, and I urge your support.

Roll call on Assembly Bill No. 262:

YEAS—42.

NAYS—None.

Assembly Bill No. 262 having received a constitutional majority,
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 263.

Bill read third time.

Remarks by Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Assembly Bill 263 makes various changes to the child custody laws in Nevada. At the present time, the child custody laws are in six different sections of the *Nevada Revised Statutes*. This bill would put them into one place, make various clarifications, and do away with the ambiguities and inconsistencies in the law. I urge your support.

Roll call on Assembly Bill No. 263:

YEAS—25.

NAYS—Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Fiore, Flores, Joiner, Jones, Moore, Neal, Ohrenschall, Shelton, Swank, Thompson, Titus—17.

Assembly Bill No. 263 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 270.

Bill read third time.

Roll call on Assembly Bill No. 270:

YEAS—42.

NAYS—None.

Assembly Bill No. 270 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 275.

Bill read third time.

Remarks by Assemblyman Nelson.

ASSEMBLYMAN NELSON:

Assembly Bill 275 exempts an excluded fiduciary from certain fiduciary duties and limits the liability of an excluded fiduciary for certain acts or omissions. The measure also allows delegation of certain duties by a fiduciary or excluded fiduciary under certain circumstances.

Roll call on Assembly Bill No. 275:

YEAS—40.

NAYS—Carlton, Neal—2.

Assembly Bill No. 275 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 278.

Bill read third time.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

Assembly Bill 278 requires the Department of Education to develop policies and procedures concerning the monitoring and distribution of funds to reduce the pupil-teacher ratio and to provide guidance to school districts concerning the class-size reduction program.

Roll call on Assembly Bill No. 278:

YEAS—42.

NAYS—None.

Assembly Bill No. 278 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 285.

Bill read third time.

Remarks by Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Assembly Bill 285 involves self-medication. This bill just authorizes those who have diabetes to be able to self-medicate themselves under proper instruction.

Roll call on Assembly Bill No. 285:

YEAS—42.

NAYS—None.

Assembly Bill No. 285 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 295.

Bill read third time.

Remarks by Assemblyman Kirner.

ASSEMBLYMAN KIRNER:

Assembly Bill 295 requires certain providers of wellness services to disclose certain information to consumers. A person who provides these services but who is not licensed, certified, or registered in this state as a provider of health care is not in violation of any law unless he or she performs certain tasks restricted to regulated health care providers.

We have gone through a number of iterations on this bill, and we have tried to restrict it so as not to infringe on the scope of practice of physicians.

Roll call on Assembly Bill No. 295:

YEAS—40.

NAYS—Titus, Trowbridge—2.

Assembly Bill No. 295 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 297.

Bill read third time.

Remarks by Assemblyman Trowbridge.

ASSEMBLYMAN TROWBRIDGE:

Assembly Bill 297 lowers the threshold aggregate amounts by which a person may be found guilty of trafficking in schedule II controlled substances. The effective date would be October 1, 2015.

Roll call on Assembly Bill No. 297:

YEAS—22.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Dooling, Fiore, Flores, Joiner, Kirkpatrick, Moore, Neal, Ohrenschall, Shelton, Spiegel, Sprinkle, Swank, Thompson—20.

Assembly Bill No. 297 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 363.

Bill read third time.

Remarks by Assemblywoman Diaz.

ASSEMBLYWOMAN DIAZ:

Assembly Bill 363 provides an additional benefit option for the surviving spouse or survivor beneficiary of a member of the Public Employees' Retirement System who was killed in the performance of his or her duty. The additional benefit option authorizes the surviving spouse or survivor beneficiary to elect to receive a benefit that is the equivalent to the greater of 50 percent of the salary of the member on the date of the member's death or the retirement allowance that the member was eligible to receive based on the member's years of service obtained before the member's death, without any reduction for age for the deceased member. The benefits provided in the bill must be paid, as applicable, to the spouse until the death or remarriage of the spouse or the survivor beneficiary until the death of the survivor beneficiary. This bill is effective upon passage and approval.

There is another bill in the Senate that seeks to do the same thing. I think we did not have enough time to clarify and rectify some of the language, and we will continue to work out some of the kinks on the other side, but I do urge its passage. We cannot repay our public employees when they lose a loved one while performing the duties of their job. There is no money in the world that will make their loved one come back, and I urge this body to support this measure.

Roll call on Assembly Bill No. 363:

YEAS—42.

NAYS—None.

Assembly Bill No. 363 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 370.

Bill read third time.

Remarks by Assemblyman Stewart.

ASSEMBLYMAN STEWART:

Assembly Bill 370 deals with visitation rights. This bill gives the judge one more tool to consider in making a decision on visitation rights.

Roll call on Assembly Bill No. 370:

YEAS—24.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Flores, Joiner, Kirkpatrick, Munford, Neal, Ohrenschall, Seaman, Spiegel, Sprinkle, Swank, Thompson—18.

Assembly Bill No. 370 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 374.

Bill read third time.

Remarks by Assemblyman Flores.

ASSEMBLYMAN FLORES:

Assembly Bill 374 requires the board of trustees of each school district to ensure that the counselor, administrator, or other licensed personnel from each public high school meets with each pupil individually in Grade 11, prior to the completion of that grade, to review the pupil's academic plan and the college and career readiness assessment if it is available. If it is determined that remediation is necessary, the counselor, administrator, or other licensed educational personnel shall coordinate with the pupil and the pupil's parent or legal guardian to revise the academic plan for the pupil to ensure that the pupil is prepared for college or career success before high school graduation.

Roll call on Assembly Bill No. 374:

YEAS—42.

NAYS—None.

Assembly Bill No. 374 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 379.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Assembly Bill 379 requires that a landlord must provide the tenant of a commercial premises with written notice of delinquency and intent to change the door locks by certified mail, return receipt requested, at least three days prior to changing the door locks of the business.

There was testimony in front of your Judiciary Committee that oftentimes small businesses, microbusinesses, are struggling trying to stay afloat, and sometimes there might be a bona fide dispute—maybe a check got lost, maybe it was written on the wrong account—that maybe could be remedied before the locks are changed and before very serious damage is done to the business which might put it under. I do hope the body will support this bill; it passed out of your Committee on Judiciary unanimously.

Roll call on Assembly Bill No. 379:

YEAS—42.

NAYS—None.

Assembly Bill No. 379 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 419.

Bill read third time.

Remarks by Assemblyman Trowbridge.

ASSEMBLYMAN TROWBRIDGE:

Assembly Bill 419 clarifies that the provisions of the Uniform Unclaimed Property Act do not apply to tangible property held in a safe-deposit box or other safekeeping depository which is not maintained by a bank or other financial institution or a safe-deposit company. This bill is effective on July 1, 2015.

Roll call on Assembly Bill No. 419:

YEAS—42.

NAYS—None.

Assembly Bill No. 419 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 429.

Bill read third time.

Remarks by Assemblyman Silberkraus.

ASSEMBLYMAN SILBERKRAUS:

Assembly Bill 429 revises the fees the State Controller may assess against a debtor by setting a uniform fee of 7 percent of the amount of the debt recovered. Additionally, this bill revises a provision concerning the circumstances under which the Controller must collect interest on any assigned debt to provide that interest must be charged at the existing statutory uniform rate, currently the prime rate plus 2 percent, if the debt is not subject to the payment of interest under a court-ordered judgment. Finally, the bill requires the Controller to deposit any recovered accrued interest into the Debt Recovery Account. This bill is effective upon passage and approval.

Roll call on Assembly Bill No. 429:

YEAS—42.

NAYS—None.

Assembly Bill No. 429 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 435.

Bill read third time.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

Assembly Bill 435 increases from 10 to 11 the number of judicial districts in the state. Lander, Mineral, and Pershing Counties are removed from their existing districts and together constitute the Eleventh Judicial District. The Sixth and Eleventh Judicial District Courts have concurrent jurisdiction over matters relating to the administration of the Humboldt River Decree, and the venue for any case or proceeding related to the Decree must be determined on an alternating basis between the two courts.

Roll call on Assembly Bill No. 435:

YEAS—42.

NAYS—None.

Assembly Bill No. 435 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 460.

Bill read third time.

Remarks by Assemblymen Stewart, Carlton, and Fiore.

ASSEMBLYMAN STEWART:

Assembly Bill 460 deals with the size of the Legislature. It directs the Legislative Counsel Bureau to conduct a study of the logistics necessary if the Legislature were to be increased by one Senator and two Assemblymen.

ASSEMBLYWOMAN CARLTON:

I rise in opposition to Assembly Bill 460. I understand the study part of this, but when you read the language of Assembly Bill 460, it says, “the intent of the Legislature to increase its membership.” To me, the study would be endorsing the fact that we agree we need to increase the size of the Legislature. When I look at the numbers, I see 22 in the Senate. That is just ripe for havoc with a tie vote. After serving there for 12 years, I cannot imagine the Senate being an 11-11 split and trying to get the business of the state done.

I have real concerns about the tone of this legislation. If we really want to have a study on it, it should be open-ended and take into consideration all factors, not be a study intended to prove the point that we want. I am in opposition to this bill.

ASSEMBLYWOMAN FIORE:

I rise in enthusiastic support of Assembly Bill 460 because it does express the intent of the Legislature to increase its membership. It is the intent, and this is a bill that is needed. I urge all my colleagues to support this.

Roll call on Assembly Bill No. 460:

YEAS—24.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Flores, Joiner, Kirkpatrick, Munford, Neal, Ohrenschall, Spiegel, Sprinkle, Swank, Thompson, Titus—18.

Assembly Bill No. 460 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 462.

Bill read third time.

Remarks by Assemblymen Stewart and Ohrenschall.

ASSEMBLYMAN STEWART:

Assembly Bill 462 is an election law. This was requested by the various election officers throughout the state, and we conferred with them in Clark County and in Washoe County and others. This would make it easier to administer elections by increasing the size of the precincts. In addition, an independent candidate will be listed as “no political party,” rather than the current listing of “independent.”

ASSEMBLYMAN OHRENSCHALL:

I rise in opposition to Assembly Bill 462. This bill grants entirely too much power to poll workers, who are not trained professional signature analysts, to demand identification from a

Nevada voter if “the signature does not match” in the sole opinion of the poll worker. There are no guiding standards in the bill and no assurances of equal treatment under the law.

Many Nevadans registered to vote decades ago and have undergone, through the passing of years and different illnesses that happen to us all, changes in how they make out their signatures so that they do not match how they filled out their affidavits of registration back in the 1960s, ‘70s, or ‘80s. These constituents of ours are not fraudsters or criminals. They are everyday citizens who should not be subject to identification requirements with no methods, standards, or principles.

Assembly Bill 462 offers no way for our constituents to vote provisionally for state races. No voters will leave their houses to go to the polls on election day thinking, The poll worker may not think my signature matches perfectly, and have to go above and beyond what they normally would when voting.

We asked the bill sponsors if they would accept an amendment that treats allegedly mismatched signatures—possibly the result of changes in the person’s ability to sign—in the same way we treat a situation where the person cannot physically sign the roll. Those voters are asked questions from their registration information and are made to make an affirmation under penalty of perjury. Unfortunately, we could not work out an agreement. The result of this bill will be to disenfranchise the elderly and the infirm, probably in significant numbers. I urge the body to defeat Assembly Bill 462.

Roll call on Assembly Bill No. 462:

YEAS—25.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Flores, Joiner, Kirkpatrick, Munford, Neal, Ohrenschall, Spiegel, Sprinkle, Swank, Thompson—17.

Assembly Bill No. 462 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Joint Resolution No. 10.

Resolution read third time.

Remarks by Assemblywoman Dooling.

ASSEMBLYWOMAN DOOLING:

Assembly Joint Resolution 10 proposes to amend the *Nevada Constitution* to require the Legislature to provide by law for a Citizens’ Commission on Salaries for Certain Elected Officers, which is empowered to set salaries for state legislators, constitutional officers, justices, and judges.

The Commission shall study the duties of elected officials, compare salaries to public and private employees who have similar qualifications, and fix salaries of these elected officers. Provisions limit the increases and decreases of salaries that may be set by the Commission. Members of the Commission are appointed by the Senate Majority Leader, Senate Minority Leader, Speaker of the Assembly, Assembly Minority Floor Leader, the Governor, and the Chief Justice of the Supreme Court. Terms of office are four years, except that certain appointments initially are for two years.

The measure proposes to repeal the provision limiting legislator salaries to the first 60 days of a regular legislative session and the first 20 days of a special legislative session. It also proposes to repeal the provision permitting the Legislature to fix salaries by law for legislators, constitutional officers, justices, and judges.

Roll call on Assembly Joint Resolution No. 10:

YEAS—27.

NAYS—Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Hickey, Joiner, Kirkpatrick, Kimer, Munford, Neal, Spiegel, Sprinkle, Swank—15.

Assembly Joint Resolution No. 10 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Resolution ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Assembly Bill No. 114 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried

GENERAL FILE AND THIRD READING

Assembly Bill No. 114.

Bill read third time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 70.

AN ACT relating to restitution; providing that a judgment requiring the payment of restitution does not expire until it is satisfied; exempting such a judgment from the time limitation for commencing an action upon or seeking the renewal thereof; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a judgment which, among other things, requires a defendant in a criminal action to pay restitution constitutes a lien which is enforceable as a judgment in a civil action. (NRS 176.275) Existing law also provides that an action upon a judgment or decree or for the renewal of such judgment or decree must be commenced within 6 years. (NRS 11.190) This bill: (1) provides that a judgment requiring a defendant in a criminal action **or a parent or guardian of a child** to pay restitution does not expire until it is satisfied; and (2) exempts such a judgment from the time limitation for commencing an action or seeking the renewal thereof.

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

Section 1. NRS 176.275 is hereby amended to read as follows:

176.275 **1.** A judgment which imposes a fine or administrative assessment or requires a defendant to pay restitution or repay the expenses of a defense constitutes a lien in like manner as a judgment for money rendered in a civil action.

2. A judgment which requires a defendant to pay restitution:

(a) May be recorded, docketed and enforced as any other judgment for money rendered in a civil action.

(b) Does not expire until the judgment is satisfied.

3. An independent action to enforce a judgment which requires a defendant to pay restitution may be commenced at any time.

Sec. 2. NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

- (a) Has fulfilled the conditions of probation for the entire period thereof;
- (b) Is recommended for earlier discharge by the Division; or
- (c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court,

➔ may be granted an honorable discharge from probation by order of the court.

2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge ~~that~~ **and is enforceable pursuant to NRS 176.275.**

3. Except as otherwise provided in subsection 4, a person who has been honorably discharged from probation:

- (a) Is free from the terms and conditions of probation.
- (b) Is immediately restored to the following civil rights:
 - (1) The right to vote; and
 - (2) The right to serve as a juror in a civil action.
- (c) Four years after the date of honorable discharge from probation, is restored to the right to hold office.
- (d) Six years after the date of honorable discharge from probation, is restored to the right to serve as a juror in a criminal action.
- (e) If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.
- (f) Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.
- (g) Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.
- (h) Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, "establishment" has the meaning ascribed to it in NRS 463.0148.
- (i) Except as otherwise provided in paragraph (h), need not disclose the conviction to an employer or prospective employer.

4. Except as otherwise provided in this subsection, the civil rights set forth in subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this State:

- (a) Of a category A felony.
- (b) Of an offense that would constitute a category A felony if committed as of the date of the honorable discharge from probation.
- (c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.
- (d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of honorable discharge from probation.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

➡ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of civil rights as set forth in subsection 3.

5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

6. Except for a person subject to the limitations set forth in subsection 4, upon honorable discharge from probation, the person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge from probation;

(b) That the person has been restored to his or her civil rights to vote and to serve as a juror in a civil action as of the date of honorable discharge from probation;

(c) The date on which the person's civil right to hold office will be restored pursuant to paragraph (c) of subsection 3; and

(d) The date on which the person's civil right to serve as a juror in a criminal action will be restored pursuant to paragraph (d) of subsection 3.

7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of honorable discharge from probation is lost, damaged or destroyed may file a written request with a court of competent jurisdiction to restore the person's civil rights pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights set forth in subsection 3. A person must not be required to pay a fee to receive such an order.

8. A person who has been honorably discharged from probation in this State or elsewhere may present:

(a) Official documentation of honorable discharge from probation, if it contains the provisions set forth in subsection 6; or

(b) A court order restoring the person's civil rights,

➡ as proof that the person has been restored to the civil rights set forth in subsection 3.

Sec. 3. NRS 176A.870 is hereby amended to read as follows:

176A.870 A defendant whose term of probation has expired and:

1. Whose whereabouts are unknown;

2. Who has failed to make restitution in full as ordered by the court, without a verified showing of economic hardship; or

3. Who has otherwise failed to qualify for an honorable discharge as provided in NRS 176A.850,

↪ is not eligible for an honorable discharge and must be given a dishonorable discharge. A dishonorable discharge releases the probationer from any further obligation, except a civil liability arising on the date of discharge for any unpaid restitution ~~and~~ **which is enforceable pursuant to NRS 176.275**, but does not entitle the probationer to any privilege conferred by NRS 176A.850.

Sec. 4. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 40.4639, 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) ~~And~~ **Except as otherwise provided in NRS 62B.420 and 176.275, an** action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without the owner's fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution or other lender because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution or other lender of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his or her official capacity and in virtue of his or her office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) An action to recover damages under NRS 41.740.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his or her official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his or her official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 4.5. NRS 62B.420 is hereby amended to read as follows:

62B.420 1. Except as otherwise provided in this subsection, if, pursuant to this title, a child or a parent or guardian of a child is ordered by the juvenile court to pay a fine, administrative assessment, fee or restitution or to make any other payment and the fine, administrative assessment, fee, restitution or other payment or any part of it remains unpaid after the time established by the juvenile court for its payment, the juvenile court may enter a civil judgment

against the child or the parent or guardian of the child for the amount due in favor of the victim, the state or local entity to whom the amount is owed or both. The juvenile court may not enter a civil judgment against a person who is a child unless the person has attained the age of 18 years, the person is a child who is determined to be outside the jurisdiction of the juvenile court pursuant to NRS 62B.330 or 62B.335 or the person is a child who is certified for proper criminal proceedings as an adult pursuant to NRS 62B.390.

2. Notwithstanding the termination of the jurisdiction of the juvenile court pursuant to NRS 62B.410 or the termination of any period of supervision or probation ordered by the juvenile court, the juvenile court retains jurisdiction over any civil judgment entered pursuant to subsection 1 and retains jurisdiction over the person against whom a civil judgment is entered pursuant to subsection 1. The juvenile court may supervise the civil judgment and take any of the actions authorized by the laws of this State.

3. A civil judgment entered pursuant to subsection 1 may be enforced and renewed in the manner provided by law for the enforcement and renewal of a judgment for money rendered in a civil action. **A judgment which requires a parent or guardian of a child to pay restitution does not expire until the judgment is satisfied. An independent action to enforce a judgment that requires a parent or guardian of a child to pay restitution may be commenced at any time.**

4. If the juvenile court enters a civil judgment pursuant to subsection 1, the person or persons against whom the judgment is issued is liable for a collection fee, to be imposed by the juvenile court at the time the civil judgment is issued, of:

- (a) Not more than \$100, if the amount of the judgment is less than \$2,000.
- (b) Not more than \$500, if the amount of the judgment is \$2,000 or greater, but is less than \$5,000.
- (c) Ten percent of the amount of the judgment, if the amount of the judgment is \$5,000 or greater.

5. In addition to attempting to collect the judgment through any other lawful means, a victim, a representative of the victim or a state or local entity that is responsible for collecting a civil judgment entered pursuant to subsection 1 may take any or all of the following actions:

(a) Except as otherwise provided in this paragraph, report the judgment to reporting agencies that assemble or evaluate information concerning credit. If the judgment was entered against a person who was less than 21 years of age at the time the judgment was entered, the judgment cannot be reported pursuant to this paragraph until the person reaches 21 years of age.

(b) Request that the juvenile court take appropriate action pursuant to subsection 6.

(c) Contract with a collection agency licensed pursuant to NRS 649.075 to collect the judgment and the collection fee. The collection agency must be paid as compensation for its services an amount not greater than the amount of the

collection fee imposed pursuant to subsection 4, in accordance with the provisions of the contract.

6. If the juvenile court determines that a child or the parent or guardian of a child against whom a civil judgment has been entered pursuant to subsection 1 has failed to make reasonable efforts to satisfy the civil judgment, the juvenile court may take any of the following actions:

(a) Order the suspension of the driver's license of a child for a period not to exceed 1 year. If the child is already the subject of a court order suspending the driver's license of the child, the juvenile court may order the additional suspension to apply consecutively with the previous order. At the time the juvenile court issues an order suspending the driver's license of a child pursuant to this paragraph, the juvenile court shall require the child to surrender to the juvenile court all driver's licenses then held by the child. The juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles the licenses, together with a copy of the order. The Department of Motor Vehicles shall report a suspension pursuant to this paragraph to an insurance company or its agent inquiring about the driving record of a child, but such a suspension must not be considered for the purpose of rating or underwriting.

(b) If a child does not possess a driver's license, prohibit the child from applying for a driver's license for a period not to exceed 1 year. If the child is already the subject of a court order delaying the issuance of a license to drive, the juvenile court may order any additional delay in the ability of the child to apply for a driver's license to apply consecutively with the previous order. At the time the juvenile court issues an order pursuant to this paragraph delaying the ability of a child to apply for a driver's license, the juvenile court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles a copy of the order.

(c) If the civil judgment was issued for a delinquent fine or administrative assessment, order the confinement of the person in the appropriate prison, jail or detention facility, as provided in NRS 176.065 and 176.075.

(d) Enter a finding of contempt against a child or the parent or guardian of a child and punish the child or the parent or guardian for contempt in the manner provided in NRS 62E.040. A person who is indigent may not be punished for contempt pursuant to this subsection.

7. Money collected from a collection fee imposed pursuant to subsection 4 must be deposited and used in the manner set forth in subsection 4 of NRS 176.064.

8. If the juvenile court enters a civil judgment pursuant to subsection 1 and the person against whom the judgment is entered is convicted of a crime before he or she satisfies the civil judgment, the court sentencing the person for that crime shall include in the sentence the civil judgment or such portion of the civil judgment that remains unpaid.

Sec. 5. NRS 213.154 is hereby amended to read as follows:

213.154 1. The Division shall issue an honorable discharge to a parolee whose term of sentence has expired if the parolee has:

(a) Fulfilled the conditions of his or her parole for the entire period of his or her parole; or

(b) Demonstrated his or her fitness for honorable discharge but because of economic hardship, verified by a parole and probation officer, has been unable to make restitution as ordered by the court.

2. The Division shall issue a dishonorable discharge to a parolee whose term of sentence has expired if:

(a) The whereabouts of the parolee are unknown;

(b) The parolee has failed to make full restitution as ordered by the court, without a verified showing of economic hardship; or

(c) The parolee has otherwise failed to qualify for an honorable discharge pursuant to subsection 1.

3. Any amount of restitution that remains unpaid by a person after the person has been discharged from parole constitutes a civil liability as of the date of discharge ~~and is enforceable pursuant to NRS 176.275.~~

Sec. 6. The amendatory provisions of this act apply to any judgment which requires a defendant to pay restitution which is rendered before, on or after October 1, 2015.

Assemblyman Hansen moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

REMARKS FROM THE FLOOR

Assemblywoman Kirkpatrick requested that the following remarks be entered in the journal.

ASSEMBLYWOMAN KIRKPATRICK:

I would like to take just a moment. I know that many of you have been getting emails saying that we took away the Public Employees' Benefits Program's [PEBP's] \$50 incentive. The Vice Chair of the PEBP Board sent out an email telling everyone to contact me. I own anything I say in this building because it is my job to represent constituents. It is my job to come here and ask the hard questions, but what I take issue with is when people do not print the whole message. I want to clarify the record because there was a lot of information left out of the newspaper article that came out last week and even in the emails folks got. It was very unclear what happened.

At the Interim Finance Committee meeting conducted on April 9, 2015, the Public Employees' Benefits Program asked the Committee to approve a work program to transfer slightly less than \$1 million from reserve funds for increased costs of contract services, primarily resulting from the continuation of the NVision Health and Wellness Program during Fiscal Year [FY] 2015. Due to concerns about the work program expressed by various members of the Committee, the Committee did not take action on the work program at the April 9, 2015, meeting.

It is important to note that the 2013 Legislature did not approve expenditure authority for the wellness program in FY 2015 and directed PEBP to wrap up the program in FY 2014. Notwithstanding the direction from the 2013 Legislature, the PEBP Board elected to continue the program in FY 2015 and did not request the expenditure authority for the administrative costs of the program until this April—more than nine months into the fiscal year. The Interim Finance Committee [IFC] expressed concern with the PEBP Board's decision to continue a program that

the Legislature had not funded and had directed to be discontinued. Members of the IFC also expressed frustration that they were being asked to approve funding for a program without being provided any data to indicate that it was reducing claims costs for program participants and indicated that the money may be better spent reducing program costs or enhancing benefits for all program participants rather than only participants in the wellness program. The IFC elected not to take action on the work program but expressed a willingness to address the future of the wellness program during the 2015 Session budget process. The IFC did not direct the PEBP Board to take any specific action as a result of the Committee's decision to take no action on the work program.

On April 16, 2015, the PEBP Board, on its own initiative, held an emergency meeting and terminated its contract with the wellness program vendor effective June 13, 2015, and cancelled its request for proposals for a new wellness program vendor that would have started on October 1, 2015. The Board also elected to eliminate incentives for wellness program participants effective July 1, 2015. The incentives included the \$50 monthly deduction in premiums for HMO [health maintenance organization] participants and the \$50 per month increased Health Savings Account contributions for high-deductible health plan participants. No other wellness benefits were impacted by the Board's decision.

As members of the Legislature, we are committed to ensuring that the PEBP program is run effectively and efficiently for plan participants. Although the IFC did not approve of the Board's action in deciding to continue a program for which funding had been eliminated, the Committee did not direct the PEBP Board to terminate the contract or cancel the wellness program. It was possible, and still is possible, that the money committees may decide to fund the wellness program in some form during the 2015-2017 biennium. If not, we hope that the Board's decision to terminate the wellness program will result in a benefit to all primary plan participants in the form of decreased costs or increased benefits for the 2016 and 2017 plan years. As members of IFC expressed during the April 9 meeting, it is my hope to address the issue with PEBP officials during the budget process later this session.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Bustamante Adams, the privilege of the floor of the Assembly Chamber for this day was extended to Chandni Patel.

On request of Assemblyman Ellison, the privilege of the floor of the Assembly Chamber for this day was extended to Sam Hanson, Emily Hutchinson, Ben Lytle, Chris Casarez, and Henry Sorensen.

On request of Assemblyman Hansen, the privilege of the floor of the Assembly Chamber for this day was extended to Taskar Eason, Magdalena Eason, Caitlin Katzenbach, Alex Katzenbach, Mandy Katzenbach, Terence Yeager, Amie Donham, and Kobe Bunker.

On request of Assemblyman Wheeler, the privilege of the floor of the Assembly Chamber for this day was extended to Isabella Lundberg, Justin Hubbard, Melissa Velasquez, Robin Smuda, Spencer Flanders, Asia Smith, Avalon Montanucci, Christine Garcia, Hannah Sizelove, Kelly Evans, Lara Cassity, Mac Reich, Madison Schirlls-Hubbard, Sandra Cubillo, Taylor Blakemore, Thomas Rao, Viviana Velaquez, Cheyenne Roy, Jazmine Lopez, Leah Schemenauer, Marissa Flanders, Reece Resnick, and Kevin Zeitler.

Assemblyman Paul Anderson moved that the Assembly adjourn until Tuesday, April 21, 2015, at 10 a.m.

Motion carried.

Assembly adjourned at 9:13 p.m.

Approved:

JOHN HAMBRICK
Speaker of the Assembly

Attest: SUSAN FURLONG
Chief Clerk of the Assembly