

THE SEVENTY-SECOND DAY

CARSON CITY (Tuesday), April 14, 2015

Senate called to order at 12:29 p.m.

President Hutchison presiding.

Roll called.

All present.

Prayer by Rabbi Evon J. Yakar.

Thank You for Your service to this State of Nevada; and, thank You for the honor of sharing these words of blessing.

The sages of the Jewish tradition debate how we can determine when morning has arrived. One claims it is when one can distinguish blue from white. Another states it is when you can differentiate between a wolf and a dog. After more debate, a great sage, Rabbi Akiva, settles the question and says, "When one can identify a friend."

While differences of opinion often divide us and those we represent, awareness that we have a bond is, and must be foremost in our work. For we all have something in common, each of us is endowed with a soul and while they are all unique, we bear the signature of being human. This charges us to ensure we care for all those who put their trust in us. May we honor this bond that makes us human by recognizing this reality.

Tomorrow, Wednesday, April 15th, is Yom Ha Shoah. The day in the Jewish tradition we remember the terrors of the Holocaust. A time when our fellow human beings failed to recognize and identify friends and when the human race failed to honor the souls with which each of us is endowed. With all of my being, I pray that this kind of past remains securely there, in the past. And, that the time when we recognize and identify all the differences among this State as being part of the magnificent tapestry that is Nevada, the United States and the human race remains into our future.

I pray that this Legislative Body continues to ensure that the souls within each of us fulfill its mission in securing a healthy, tolerant and prosperous future. Among the morning prayers in Judaism we say, I am grateful before the Living and Eternal God, who has returned to me my soul in mercy.

May each of us be grateful for the souls that make us unique and treasure the charge to honor that soul in every other we encounter, represent and with whom we share this great State of Nevada.

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 153, 242, 246, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES A. SETTELMAYER, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 477, 478, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PETE GOICOECHEA, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 501, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOSEPH P. HARDY, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 60, 197, 264, 442, 443, 444, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

GREG BROWER, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 104, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PATRICIA FARLEY, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Senate Bills Nos. 142, 183, 229, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SCOTT HAMMOND, *Chair*

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 14, 2015

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Senate Bill No. 414.

MARK KRMPOTIC
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Hardy has approved the addition of Senator Hammond as a primary sponsor of Senate Bill No. 178.

Senator Roberson moved that, through April 21, 2015, the Secretary of the Senate dispense with reading the titles of all bills and resolutions.

Motion carried.

Senator Roberson moved that, through April 21, 2015, all necessary rules be suspended, and that all bills and resolutions reported out of Committee be immediately placed on the appropriate reading files.

Remarks by Senator Roberson.

This suspension will put bills and resolutions, just reported out of Committee, on the Senate's next Floor agenda, for the same legislative day, time permitting.

Motion carried.

Senator Roberson moved that, through April 21, 2015, all necessary rules be suspended, and that all bills and joint resolutions returned from reprint be declared emergency measures under the Constitution and immediately placed on third reading and final passage.

Motion carried.

Senator Hardy moved that Senate Bill No. 231 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Kieckhefer moved that Senate Bill No. 393 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Spearman moved that Senate Bill No. 359 be taken from the Secretary's desk and placed at the bottom of the General File.

Remarks by Senators Spearman, Brower, Hardy, Atkinson and Woodhouse.

SENATOR SPEARMAN:

I rise to express my profound disappointment in not taking Senate Bill No. 359 from the Secretary's desk. It did not have a fiscal note. There was no impact. It simply granted admission preference to children of military members who have been killed in action or who are missing in action. I see, all the time, ribbons on cars and all sorts of statements about supporting our troops. It takes more than a yellow ribbon to support our troops. Thank you.

SENATOR BROWER:

Mr. President, I just want to make sure the record is clear with respect to what is happening with S.B. No. 359. This is largely, I would submit, much ado about nothing. Let me be clear that the bill does not just apply to the families of those who have been killed in action or are missing in action, it applies to all active-duty military members. Let us understand that to begin with.

S.B. No. 359 was put on the desk because of some questions and concerns by some members of the Body, including me. As is the tradition of this Body, when members have questions and concerns, bills are put on the desk so those questions and concerns can be answered and clarified before the Body takes final action. It is nothing new. In fact, I would think we would all agree it is the right way to do things rather than to move too quickly.

I was specifically concerned about the need for this bill, given the fact that the Department of Defense has arguably the finest employee child-care system in the world. That does not mean this bill is not necessary, but I think more information needs to be discussed and questions need to be answered.

Because I am not on the Health and Human Services Committee and did not hear the bill, I watched the video of the hearing last night. I would suggest to the Body, I heard no evidence, there is a problem in Nevada with respect to child care for military families and that the bill is necessary. This does not mean that information is not out there, but the hearing did not include any evidence of such a problem or need. In addition, this morning, I asked the bill's sponsor for such evidence, and it was not provided. Essentially, I was put off. Frankly, I expect more from a colleague and a fellow veteran. Nevertheless, I do hope we can have further discussions about this important issue, and that the concerns and questions members have can be satisfied and answered. If that can happen, I will be the first to jump up and take this bill off the desk.

This issue, while perhaps important, is not, I would suggest, urgent as is suggested by the effective date of July 1, 2015, on the face of the bill. I am confident, if in fact the evidence I have asked for can be provided, this Body will do the right thing and will take the bill off the desk and process it and give it the attention it deserves. But, that is all we are dealing with here. We are dealing with some good-faith questions and concerns that hopefully can be satisfied and answered. At that time, if that can take place, we will be ready to move the bill. I understand, as much as anyone, the importance of making sure our active-duty military personal and our veterans are taken care of. There are a lot of different ways to do that. This bill may or may not be one of those ways, but let us get all the facts and have our members have all of their questions answered and then move forward and do the right thing. Thank you, Mr. President.

SENATOR SPEARMAN:

For the record, I want to correct the veracity of the statement made by my colleague. I did provide information, and I spoke to Nellis Air Force Base today. I also spoke to the National Guard, and I spoke to others who are actively involved in trying to find space for military families who need childcare. I also spoke with NACCRRRA in Washington D.C., and they verified that even though they have some facilities, all of the facilities have waiting lists. The National Guard has waiting lists; Nellis has waiting lists. As I previously stated, the bill covers children of those killed in action or missing in action and even if someone were to construe it as applying to all active-duty military, is not this the least we can do for people who are willing to lay down our lives for this Country? I provided the information to my colleague, as a matter of fact, I provided the information in response to his statement that: "Yes, I did call DOD. I talked to someone in DOD." I say, again, it takes more than a yellow ribbon to support our troops. What this bill does—there is no fiscal note, none. Most of the bills we have passed this morning on General File all have the wording: "This bill is effective July 1, 2015." I am not sure how relevant this argument is. I say, again, there is no fiscal note. Our military families need it and the least we can do is to pass it.

Is not it ironic this is the month of the Military Child, and we are discussing this and debating the timeliness of passing this? Isn't it ironic? It might even be laughable if it were not tragic.

SENATOR BROWER:

This has spun out of control. Since the word veracity was mentioned, let me set the record straight. When I approached my colleague, this morning, and expressed my reservations about the bill and asked some questions and requested some information, I was told simply that the bill has to come off the desk and there has to be a vote today. That is the most accurate description of this morning's conversation I can provide. I stand up here and say despite all this, we need to have further discussions to make sure we have a collective comfort level with this bill. The fact that the olive branch cannot be taken in good faith and there cannot simply be an acknowledgement to have those discussions—not a floor debate, not tweeting, not talking to reporters—but an honest discussion and information exchange, veteran to veteran, colleague to colleague, that was not the chosen course by my colleague. I do not know how to describe that. I am here. I am on the second floor back in the corner. I am here all day, every day, and I am happy to have discussions and dialogue about this bill. I look forward to that. When that happens and when the majority of this Body has a comfort level this is good public policy, addressing a real need in Nevada, Mr. President, I will move that bill off the desk and we will take it up. I look forward to those discussions.

SENATOR HARDY:

As the Chair of the Committee that heard the bill, I appreciate the passion with which the sponsor presented the bill. I thank my colleague for what she has done, not only in this Body but in defense not only of our Country but of freedom. I appreciate that freedom: that freedom of expression, that freedom of religion, that freedom of belief and that freedom of conscience. I appreciate the opportunity we have in this Body to talk with however much passion we want and still have that respect for one another and for where we are all coming from.

As the Chair of that Committee, I have appreciated the ability to go to the sponsor of the bill, for instance, and say this is what I would like to do to make sure we have our concerns met. I appreciate that the sponsor of the bill, in question, allowed me to talk and discuss the concerns that needed to be addressed, albeit not specifically, and suggest we have something written. I probably process things a little better when they are written down, and I appreciate the information that has come up now that will be written in the record so we can digest that. I appreciate the efforts that have gone into documenting those things, and I appreciate the opportunity as Chair of the Committee to have some sort of dialogue that would probably mitigate some of the feelings we can have.

I would suggest we have the Chair of the Committee get involved with that. I appreciate the Minority Leader for his coming to me personally and saying: "I am putting your bill on the desk," and having a conversation *mano a mano* in a way that was not vitriolic. I appreciate the ability we have to talk, and I think that is quite important in this. I would hate to see, and I

should not use the word hate, but I would hate to see us as individuals do the personal attacks because I do not think that is where we are.

We need to make sure we have respect and can still appreciate the sanctity of the Senate and what we can do. I open myself up, as the Chair, to go between whoever needs to on my Committee or what we need to do in order to come to some amicable solution. I offer that for myself and suggest we try to find a way to do this without hurting feelings.

SENATOR ATKINSON:

I have been listening to the debate and need to rise in support of my colleague from District 1. I do not think anyone in this House or the other one, and we have a member over there who is a veteran, who has worked as tirelessly on veteran issues. Rarely do I get to see the good Senator from District 1 this passionate and this strong about something she believes in.

I was able to look up a statistic just a moment ago. It says 11,000 military kids are on child-care waiting lists, 11,000 Mr. President! I do understand my colleague from District 15 as well, but somehow we always get to this point and I believe we are here because there is not consistency in what is going on in this House at times. My colleague from District 15 loves to stand up and talk about what passed out unanimously. I believe, and I am not on the Health and Human Services Committee just like he is not, that this bill came out unanimously. If there were questions of that Committee, at that time, they should have been asked and answered. I do know that typically, when issues come to this Floor and we have questions on a bill, even on something on General File, we usually are able to stand up and debate those issues. That was not the case on this unanimous bill. Instead, it was pulled, when maybe some of those questions could have been answered during the Floor debate as opposed to debating a bill that is not being considered at this time. I believe if we are going to have consistency and we are going to talk about what came out unanimous and we are going to continue to say that on the record, then this did come out unanimous. Being of the Majority Party, he should have been able to discuss this with his Chair and find out exactly what happened.

I have heard mention of personal things, but I still do not know what his question is regarding this bill. I think, as we move forward, we need to consider some of these things so we can try to change the decorum in this place because it is totally out of control, Mr. President. I submit, when we have these types of issues we should have real questions and real answers to the issues facing us. Because I have heard this five or ten times, when people talk about people's Twitter or what is out there, my suggestion is, if you do not like what is on someone's Twitter or their Facebook, there is a button at the right part of the screen that is a delete button; do not follow them. Thank you, Mr. President.

SENATOR WOODHOUSE:

I want to follow up on the comments made by my colleague from District 4 regarding this bill. I am a member of the Health and Human Services Committee. The vote on this bill was unanimous, and there was no opposition testimony when we heard the bill that afternoon. As we move along with this issue, I urge you to take a look at what the questions might be, speak to those of us on the Committee and, especially, speak to the sponsor of this bill, and let us move it along. Thank You very much.

Senators Spearman, Ford and Atkinson requested a roll call vote on Senator Spearman's motion.

Roll call on Senator Spearman's motion:

YEAS—10.

NAYS—Brower, Farley, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Lipparelli, Roberson, Settelmeyer—11.

The motion having failed to receive a majority, Mr. President declared it lost.

SECOND READING AND AMENDMENT

Senate Bill No. 9.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 46.

SUMMARY—Requires the Nevada Gaming Commission to adopt regulations relating to the development of technology in gaming. (BDR 41-61)

AN ACT relating to gaming; requiring the Nevada Gaming Commission to adopt regulations relating to the development of certain technology in gaming; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes provisions for the licensing and control of gaming in this State. (Chapter 463 of NRS) Existing law also requires the Nevada Gaming Commission to adopt, amend or repeal regulations for purposes of carrying out those provisions. (NRS 463.150) This bill requires the Commission to adopt regulations which encourage manufacturers to develop and deploy gaming devices , associated equipment and various gaming support systems that incorporate innovative, alternative and advanced technology. This bill also provides that such regulations may include technical standards for the manufacture of gaming devices , associated equipment and various gaming support systems that incorporate certain features.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Legislature hereby declares that:*

(a) *The State of Nevada leads the nation as the home state for companies that design, develop and bring to market the technology which supports the global gaming industry, including gaming devices, associated equipment and various gaming support systems.*

(b) *The continued growth and success of the gaming industry in the State of Nevada depends on the fostering of a business and regulatory environment that promotes continued advances in the use of technology in gaming, which improves the entertainment experience, encourages innovation and supports expansion of the domestic technology sector of the economy of this State.*

2. *The Commission shall, with the advice and assistance of the Board, adopt regulations which encourage manufacturers to develop and deploy gaming devices , associated equipment and various gaming support systems that incorporate innovative, alternative and advanced technology.*

3. *The regulations adopted pursuant to subsection 2 may include, without limitation, technical standards for the manufacture of gaming devices , associated equipment and gaming support systems that:*

(a) Define and differentiate between the requirements for and the outcomes of a game of skill ~~and~~ a game of chance ~~and~~ and a hybrid game;

(b) Allow flexibility in payout percentages or the outcome of a game as determined on the basis of nondiscriminatory identifiers;

(c) Support integration of social networking technologies;

(d) Facilitate among enrolled players the interactive and concurrent play of games supported by networked server computers;

(e) Accommodate secure account wagering and transactions using electronic commerce; and

(f) Require, when applicable, appropriate information to be disclosed to a player explaining that the outcome of a game will be affected by skill or identifiers.

4. As used in this section:

(a) "Game of skill" means a game in which the skill of the player, ~~by reason of the knowledge, dexterity or any other ability or expertise of the player,~~ rather than chance, is the dominant factor in affecting the outcome of the game as determined over a period of continuous play.

(b) "Hybrid game" means a game in which a combination of the skill of the player and chance affects the outcome of the game as determined over a period of continuous play.

(c) "Identifier" means any specific and verifiable fact concerning a player or group of players which is based upon objective criteria relating to the player or group of players, including, without limitation:

(1) The frequency, value or extent of predefined commercial activity;

(2) The subscription to or enrollment in particular services; ~~for~~

(3) The use of a particular technology concurrent with the play of a gaming device ~~and~~;

(4) The skill of the player;

(5) The skill of the player relative to the skill of any other player participating in the same game;

(6) The degree of skill required by the game; or

(7) Any combination of subparagraphs (1) to (6), inclusive.

(d) "Skill" means the knowledge, dexterity or any other ability or expertise of a natural person.

Sec. 2. This act becomes effective upon passage and approval.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 46 to Senate Bill No. 9 does the following: adds "associated equipment and support systems" to the list of devices that will be addressed under new regulations established by the Gaming Control Board; adds "a hybrid game" to the types of games that will be defined and regulated; and includes player skill, or a combination of skill and other elements, to the list of "identifiers" that will be subject to regulation.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 54.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 133.

SUMMARY—Revises provisions governing the commitment and release of incompetent criminal defendants. (BDR 14-334)

AN ACT relating to criminal procedure; revising provisions governing the commitment and release of incompetent criminal defendants; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if criminal proceedings against a defendant who is charged with any category A felony or certain category B felonies are dismissed because the defendant has been: (1) found incompetent, with no substantial probability of attaining competency in the foreseeable future; and (2) released from custody or from obligations as an outpatient, the prosecuting attorney may file, within 10 judicial days after such dismissal, a motion with the court for a hearing to determine whether to commit the person to the custody of the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services. Existing law requires the Division to perform and provide to the court a comprehensive risk assessment which indicates whether the person requires the level of security provided by a forensic facility. (NRS 178.425, 178.461) Section 1 of this bill ~~[changes the applicable crimes with which]~~ provides that if such a defendant is charged ~~[from]~~ with any category A felony other than murder or sexual assault or certain category B felonies ~~[to murder or sexual assault.]~~, the court must dismiss the motion if the comprehensive risk assessment indicates that the person does not require the level of security provided by a forensic facility.

Existing law also provides that the Division or a person who is committed to the custody of the Administrator of the Division may petition the court which committed the person for conditional release. If such a person serves a period of conditional release, the court is required to review the eligibility of the person for discharge from conditional release at least once every 12 months. The court must discharge the person from conditional release if, at the conclusion of such a review, the court finds by clear and convincing evidence that the person: (1) no longer has a mental disorder; and (2) is not a danger to himself or herself or others. (NRS 178.463) Section 2 of this bill removes the requirement that the court find by clear and convincing evidence that the person no longer has a mental disorder.

Section 3 of this bill provides that the amendatory provisions of section 1 apply retroactively to a person who is charged with any category A felony other than murder or sexual assault or a category B felony listed in subsection 6 of NRS 178.461 ~~[, as that subsection existed before the effective date of this bill.]~~ if: (1) the proceedings against the person were dismissed before the effective date of this bill; and (2) on the effective date of this bill,

the court has not yet ordered the commitment of the person to the custody of the Administrator of the Division.

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

Section 1. NRS 178.461 is hereby amended to read as follows:

178.461 1. If the proceedings against a defendant who is charged with any category A felony or a category B felony listed in subsection 6 ~~murder or sexual assault~~ are dismissed pursuant to subsection 5 of NRS 178.425, the prosecuting attorney may, within 10 judicial days after the dismissal, file a motion with the court for a hearing to determine whether to commit the person to the custody of the Administrator pursuant to subsection 3. ~~The~~ Except as otherwise provided in subsection 2, the court shall hold the hearing within 10 judicial days after the motion is filed with the court.

2. If the prosecuting attorney files a motion pursuant to subsection 1, the prosecuting attorney shall, not later than the date on which the prosecuting attorney files the motion, request from the Division a comprehensive risk assessment which indicates whether the person requires the level of security provided by a forensic facility. The Division shall provide the requested comprehensive risk assessment to the court, the prosecuting attorney and counsel for the person not later than three judicial days before the hearing. If the person was charged with any category A felony other than murder or sexual assault or a category B felony listed in subsection 6 and the comprehensive risk assessment indicates that the person does not require the level of security provided by a forensic facility, the court shall dismiss the motion.

3. At a hearing held pursuant to subsection 1, if the court finds by clear and convincing evidence that the person has a mental disorder, that the person is a danger to himself or herself or others and that the person's dangerousness is such that the person requires placement at a forensic facility, the court may order:

(a) The sheriff to take the person into protective custody and transport the person to a forensic facility; and

(b) That the person be committed to the custody of the Administrator and kept under observation until the person is eligible for conditional release pursuant to NRS 178.463 or until the maximum length of commitment described in subsection 4 has expired.

4. The length of commitment of a person pursuant to subsection 3 must not exceed 10 years, including any time that the person has been on conditional release pursuant to NRS 178.463.

5. At least once every 12 months, the court shall review the eligibility of the defendant for conditional release.

6. The provisions of subsection 1 apply to any of the following category B felonies:

(a) Voluntary manslaughter pursuant to NRS 200.050;

(b) Mayhem pursuant to NRS 200.280;

- (c) Kidnapping in the second degree pursuant to NRS 200.330;
- (d) Assault with a deadly weapon pursuant to NRS 200.471;
- (e) Battery with a deadly weapon pursuant to NRS 200.481;
- (f) Aggravated stalking pursuant to NRS 200.575;
- (g) First degree arson pursuant to NRS 205.010;
- (h) Burglary with a deadly weapon pursuant to NRS 205.060;
- (i) Invasion of the home with a deadly weapon pursuant to NRS 205.067;
- (j) Any category B felony involving the use of a firearm; and
- (k) Any attempt to commit a category A felony.

Sec. 2. NRS 178.463 is hereby amended to read as follows:

178.463 1. The Division or a person who is committed to the custody of the Administrator pursuant to NRS 178.461 may petition the court which committed the person for conditional release.

2. A person who is committed to the custody of the Administrator pursuant to NRS 178.461 is eligible for conditional release only after:

(a) The Division has completed a comprehensive risk assessment concerning the person;

(b) A decision to release the person from commitment with conditions imposed by the court in consultation with the Division has been made based on input from the person's treatment team, the prosecuting attorney, the counsel for the person and the team that will supervise the person in the community; and

(c) The court which committed the person has approved the conditional release.

3. If a person is serving a period of conditional release pursuant to this section, the court must, at least once every 12 months, review the eligibility of the defendant for discharge from conditional release. If, at the conclusion of the review required by this subsection, the court finds by clear and convincing evidence ~~[that the person no longer has a mental disorder and]~~ that the person is not a danger to himself or herself or others, the court must discharge the person from conditional release.

4. The length of the period of conditional release must not exceed 10 years, including any time that the person has been committed to the custody of the Administrator pursuant to NRS 178.461 and 178.464.

Sec. 3. 1. The amendatory provisions of section 1 of this act apply ~~to~~

~~(a) To a person who is charged with murder or sexual assault and against whom, on or after the effective date of this act, proceedings are dismissed pursuant to subsection 5 of NRS 178.425.~~

~~(b) Retroactively] retroactively to a person who is charged with any category A felony other than murder or sexual assault or a category B felony listed in subsection 6 of NRS 178.461 [as that subsection existed before the effective date of this act,] if:~~

~~[(1)] (a)~~ The proceedings against the person were dismissed pursuant to subsection 5 of NRS 178.425 before the effective date of this act; and

~~[(2)]~~ (b) On the effective date of this act, the court has not yet ordered the commitment of the person to the custody of the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services pursuant to subsection 3 of NRS 178.461.

2. The amendatory provisions of section 2 of this act apply to a review conducted by a court pursuant to subsection 3 of NRS 178.463 that is concluded after the effective date of this act.

Sec. 4. This act becomes effective upon passage and approval.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 133 to Senate Bill No. 54 replaces the list of crimes stricken from the original bill for which a prosecuting attorney may request a hearing to determine if an offender should be committed to the custody of the Division of Public and Behavioral Health.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 56.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 314.

SUMMARY—Revises provisions governing graffiti. (BDR 15-479)

AN ACT relating to graffiti; revising the definition of "graffiti"; expanding the list of items that are considered graffiti implements which are unlawful to carry in certain places; clarifying that a governmental entity may bring a civil action for damages to public property; authorizing the governing body of a city to adopt ordinances to address covering and removing certain graffiti on residential and nonresidential property ; ~~that is visible from a public right of way;~~ revising provisions governing money in a city's graffiti reward and abatement fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a crime to place graffiti on or otherwise deface the public or private property, real or personal, of another, without the permission of the owner. (NRS 206.330) Sections 5 , 8.2 and 16 of this bill revise the definition of "graffiti" to : (1) clarify that estrays and livestock are included within the scope of property to which the offense of graffiti applies ~~[(1)]~~ ; and (2) exclude certain items which are affixed to property.

Existing law makes it a misdemeanor for a person to carry on his or her person, in certain public places, a graffiti implement with the intent to vandalize, place graffiti on or deface property. (NRS 206.335) Section 7 of this bill revises the definition of "graffiti implement" to include any item that may be used to etch ~~[(mark)]~~ or deface property.

Existing law requires a person who is ordered to pay restitution for placing graffiti on public property to pay the restitution to the governmental entity that has incurred expenses for abating the graffiti. (NRS 206.345) Section 8 of this bill authorizes the payment of restitution to a governmental entity for

future expenses to abate the graffiti. Existing law also authorizes the owner of public or private property that has been damaged by graffiti to bring a civil action against the person who placed the graffiti and recover damages in an amount up to three times the amount of any loss in value to property and up to three times the cost of restoring the property plus attorney's fees and costs. (NRS 206.345) Section 8 clarifies that a governmental entity may also bring a civil action to recover such damages from a person who placed graffiti on property if the governmental entity owns or is otherwise responsible for the damaged property.

Existing law authorizes a board of county commissioners to provide by ordinance for the covering or removal of certain graffiti on certain types of property. (NRS 244.36935) Sections 8.4 and 8.6 of this bill revise provisions governing the covering or removal of certain graffiti that is placed on residential property. Section 14 of this bill authorizes the governing body of a city to similarly provide by ordinance for the covering or removal of certain graffiti on ~~certains types of~~ residential property.

Existing law authorizes a board of county commissioners to provide by ordinance procedures pursuant to which the board may order an owner of nonresidential property to cover or remove certain graffiti on the owner's property. (NRS 244.3694) Section 8.8 of this bill revises provisions governing the covering or removal of graffiti that is placed on nonresidential property. Section 15 of this bill similarly authorizes the governing body of a city to provide by ordinance procedures pursuant to which the governing body may order an owner of nonresidential property to cover or remove certain graffiti on the owner's property.

Existing law requires the governing body of each city to create a fund to pay, upon approval by the governing body of the city, a reward to certain persons who provide information which results in the identification, apprehension and conviction of a person who violated a city ordinance prohibiting graffiti or other defacement of property. (NRS 268.4085) Section 18 of this bill expands the authorized use of money in the fund: (1) to purchase supplies or pay for other graffiti abatement costs incurred by the city; (2) to be paid for information which results in the identification, apprehension or conviction of a person who is alleged to have violated a city ordinance that prohibits graffiti or defacement of property; and (3) to be paid upon approval of the city manager, the authorized designee of the city manager or, if the city does not have a city manager, the governing body of the city.

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

Section 1. Chapter 206 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 206.005 and sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Estray" means any livestock running at large upon public or private lands in this State whose owner is unknown in the section where the animal is found.*

Sec. 4. *"Livestock" has the meaning ascribed to it in NRS 205.219.*

Sec. 5. NRS 206.005 is hereby amended to read as follows:

206.005 ~~{As used in this chapter, "graffiti"}~~

1. "Graffiti" means any unauthorized inscription, word, figure or design that is marked, etched, scratched, drawn, painted on or affixed to the public or private property, real or personal, of another, including, without limitation, an estray or one or more head of livestock, which defaces the property.

2. The term does not include any item affixed to property which may be removed:

(a) By hand without defacing the property;

(b) Through the use of a chemical or cleaning solvent commonly used for removing an adhesive substance without defacing the property; or

(c) Without the use of a decal remover tool.

3. As used in this section, "decal remover tool" means any device using power or heat to remove an adhesive substance.

Sec. 6. NRS 206.150 is hereby amended to read as follows:

206.150 1. Except as otherwise provided in subsections 2 and 3, any person who willfully and maliciously kills, maims or disfigures any animal belonging to another, or exposes any poison or noxious substance with intent that it should be taken by the animal is guilty of a category D felony and shall be punished as provided in NRS 193.130, and may be further punished by a fine of not more than \$10,000.

2. Except as otherwise provided in NRS 205.220, a person who willfully and maliciously kills an estray or one or more head of livestock, without the authority to do so, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. The provisions of subsection 1 do not apply to any person who kills a dog pursuant to NRS 575.020.

~~{4. As used in this section:~~

~~—(a) "Estray" means any livestock running at large upon public or private lands in this state, whose owner is unknown in the section where the animal is found.~~

~~—(b) "Livestock" has the meaning ascribed to it in NRS 205.219.]~~

Sec. 7. NRS 206.335 is hereby amended to read as follows:

206.335 1. Any person who carries on his or her person a graffiti implement with the intent to vandalize, place graffiti on or otherwise deface public or private property, real or personal, of another:

(a) While on or under any overpass or bridge or in any flood channel;

(b) At any public facility, community center, park, playground, swimming pool, transportation facility, beach or recreational area whereon a sign is posted in a location reasonably expected to be viewed by the public which

states that it is a misdemeanor to possess a graffiti implement at that public location without valid authorization; or

(c) In a public transportation vehicle wherein a sign is posted that is easily viewed by passengers which states that it is a misdemeanor to possess a graffiti implement in the vehicle without valid authorization,

➔ is guilty of a misdemeanor unless the person has first received valid authorization from the governmental entity which has jurisdiction over the public area or other person who is designated to provide such authorization.

2. As used in this section:

(a) "Broad-tipped indelible marker" means any felt-tipped marker or similar implement which contains a fluid that is not soluble in water and which has a flat or angled writing surface of a width of one-half inch or greater.

(b) "Graffiti implement" means any broad-tipped indelible marker, ~~for~~ aerosol paint container, carbide-tipped instrument or other item that may be used to ~~propel~~ :

(1) *Propel* or apply ~~fluid~~ any substance that is not soluble in water ~~[-]~~ ;
or

(2) *Etch* ~~[- mark]~~ or deface property.

(c) "Public transportation vehicle" means a bus, train or other vehicle or instrumentality used to transport persons from a transportation facility to another location.

(d) "Transportation facility" means an airport, marina, bus terminal, train station, bus stop or other facility where a person may go to obtain transportation.

Sec. 8. NRS 206.345 is hereby amended to read as follows:

206.345 1. A court may, in addition to any other fine or penalty imposed, order a person who places graffiti on or otherwise defaces public or private property in violation of NRS 206.125 or 206.330 to participate in counseling, and if the person is less than 18 years of age, order the parent or legal guardian of the person to attend or participate in counseling pursuant to NRS 62E.290.

2. If a court orders a person who violates the provisions of NRS 206.125 or 206.330 to pay restitution, the person shall pay the restitution to:

(a) The owner of the property which was affected by the violation; or

(b) If the violation involved the placing of graffiti on any public property, the governmental entity that incurred *or will incur* expenses for removing, covering or cleaning up the graffiti.

3. The owner of ~~public or private~~ the property that has been damaged by graffiti *or a governmental entity that is otherwise responsible for the property* may bring a civil action against the person who placed the graffiti on such property. The court may award to the *governmental entity or other* property owner damages in an amount up to three times the amount of any loss in value to the property and up to three times the cost of restoring the property plus attorney's fees and costs, which may be recovered from the

offender or, if the offender is less than 18 years of age, from the parent or legal guardian of the offender.

Sec. 8.2. NRS 244.36915 is hereby amended to read as follows:

244.36915 1. "Graffiti" means any unauthorized inscription, word, figure or design that is marked, etched, scratched, drawn, ~~or~~ painted on ~~or affixed to~~ the public or private property, real or personal, of another, including, without limitation, an estray or one or more head of livestock, which defaces such property.

2. The term does not include any item affixed to property which may be removed:

(a) By hand without defacing the property;

(b) Through the use of a chemical or cleaning solvent commonly used for removing an adhesive substance without defacing the property; or

(c) Without the use of a decal remover tool.

3. As used in this section:

(a) "Decal remover tool" means any device using power or heat to remove an adhesive substance.

(b) "Estray" has the meaning ascribed to it in section 3 of this act.

(c) "Livestock" has the meaning ascribed to it in NRS 205.219.

Sec. 8.4. NRS 244.3692 is hereby amended to read as follows:

244.3692 "Residential property" means a parcel of land, including all structures thereon, that is ~~zoned for~~ an owner-occupied single-family residence.

Sec. 8.6. NRS 244.36935 is hereby amended to read as follows:

244.36935 1. The board of county commissioners may adopt by ordinance procedures pursuant to which officers, employees or other designees of the county may cover or remove graffiti that is ~~is~~

~~(a) Placed~~ placed on the exterior of a fence or wall located on the perimeter of residential property ~~; and~~

~~(b) Visible from a public right of way.~~

2. An ordinance adopted pursuant to subsection 1 must provide that:

(a) Officers, employees or other designees of the county shall not cover or remove the graffiti unless:

(1) The owner of the residential property consents to the covering or removal of the graffiti; or

(2) If the board of county commissioners or its designee is unable to contact the owner of the residential property to obtain the owner's consent, the board first provides the owner of the property with written notice that is:

(I) Sent by certified mail, return receipt requested; and

(II) Posted on the residential property on which the graffiti will be covered or from which the graffiti will be removed,

➔ at least 5 days before the officers, employees or other designees of the county cover or remove the graffiti.

(b) The county shall pay the cost of covering or removing the graffiti.

Sec. 8.8. NRS 244.3694 is hereby amended to read as follows:

244.3694 1. The board of county commissioners of a county may adopt by ordinance procedures pursuant to which the board or its designee may order an owner of nonresidential property within the county to cover or remove graffiti that is ~~is~~

~~(a) Placed~~ placed on that nonresidential property ~~is and~~

~~(b) Visible from a public right of way;~~

~~to~~ to protect the public health, safety and welfare of the residents of the county and to prevent blight upon the community.

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 graffiti and the date by which the owner must cover or remove the graffiti; and

(2) Afforded an opportunity for a hearing and an appeal before the board or its designee.

(b) Provide that the date specified in the notice by which the owner must cover or remove the graffiti 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 for labor and materials used to cover or remove the graffiti if the owner fails to cover or remove the graffiti.

3. The board or its designee may direct the county to cover or remove the graffiti and may recover the amount expended by the county for labor and materials used to cover or remove the graffiti 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 cover or remove the graffiti 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 cover or remove the graffiti within the period specified in the order; or

(c) The board has denied the appeal of the owner and the owner has failed to cover or remove the graffiti within the period specified in the order.

4. In addition to any other reasonable means of recovering money expended by the county to cover or remove the graffiti, the board may:

(a) Provide that the cost of covering or removing the graffiti is a lien upon the nonresidential property on which the graffiti was covered or from which the graffiti was removed; or

(b) Make the cost of covering or removing the graffiti a special assessment against the nonresidential property on which the graffiti was covered or from which the graffiti was removed.

5. A lien authorized pursuant to paragraph (a) of subsection 4 must be perfected by:

(a) Mailing by certified mail a notice of the lien, separately prepared for each lot affected, addressed to the last known owner of the property at his or

her last known address, as determined by the real property assessment roll in the county in which the nonresidential property is located; and

(b) Filing with the county recorder of the county in which the nonresidential property is located, a statement of the amount due and unpaid and describing the property subject to the lien.

6. A special assessment authorized pursuant to paragraph (b) of subsection 4 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.

7. As used in this section, "nonresidential property" means all real property other than residential property. The term does not include real property owned by a governmental entity.

Sec. 9. Chapter 268 of NRS is hereby amended by adding thereto the provisions set forth as sections 10 to 15, inclusive, of this act.

Sec. 10. *As used in NRS 268.4075 to 268.4085, inclusive, and sections 10 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 268.4075 and sections 11, 12 and 13 of this act have the meanings ascribed to them in those sections.*

Sec. 11. *"Estray" has the meaning ascribed to it in section 3 of this act.*

Sec. 12. *"Livestock" has the meaning ascribed to it in NRS 205.219.*

Sec. 13. *"Residential property" means a parcel of land, including all structures thereon, that is ~~zoned for~~ an owner-occupied single-family residence.*

Sec. 14. 1. *The governing body of a city may adopt by ordinance procedures pursuant to which officers, employees or other designees of the city may cover or remove graffiti that is ~~+~~*

~~*(a) Placed*~~ *placed on ~~the exterior of a fence or wall located on the perimeter of~~ residential property. ~~+~~ and*

~~*(b) Visible from a public right of way.*~~

2. *An ordinance adopted pursuant to subsection 1 must provide that:*

(a) Officers, employees or other designees of the city may not cover or remove the graffiti unless:

(1) The owner of the residential property consents to the covering or removal of the graffiti; or

(2) If the governing body of the city or its designee is unable to contact the owner of the residential property to obtain the owner's consent, the governing body first provides the owner of the property with written notice that is:

(I) Sent by certified mail, return receipt requested; and

(II) Posted on the residential property on which the graffiti will be covered or from which the graffiti will be removed,

➡ at least 5 days before the officers, employees or other designees of the city cover or remove the graffiti.

(b) The city shall pay the cost of covering or removing the graffiti.

Sec. 15. 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 nonresidential property within the city to cover or remove graffiti that is ~~+~~*

~~*(a) Placed*~~ *placed on that nonresidential property ~~+~~ and*

~~*(b) Visible from a public right of way;*~~

~~*+*~~ *to protect the public health, safety and welfare of the residents of the city and to prevent blight upon the community.*

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 graffiti and the date by which the owner must cover or remove the graffiti; and

(2) Afforded an opportunity for a hearing and an appeal before the governing body of the city or its designee.

(b) Provide that the date specified in the notice by which the owner must cover or remove the graffiti 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 cover or remove the graffiti if the owner fails to cover or remove the graffiti.

3. *The governing body of the city or its designee may direct the city to cover or remove the graffiti and may recover the amount expended by the city for labor and materials used to cover or remove the graffiti 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 cover or remove the graffiti 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 cover or remove the graffiti within the period specified in the order; or

(c) The governing body has denied the appeal of the owner and the owner has failed to cover or remove the graffiti within the period specified in the order.

4. *In addition to any other reasonable means of recovering money expended by the city to cover or remove the graffiti, the governing body of the city may:*

(a) Provide that the cost of covering or removing the graffiti is a lien upon the nonresidential property on which the graffiti was covered or from which the graffiti was removed; or

(b) Make the cost of covering or removing the graffiti a special assessment against the nonresidential property on which the graffiti was covered or from which the graffiti was removed.

5. *A lien authorized pursuant to paragraph (a) of subsection 4 must be perfected by:*

(a) Mailing by certified mail a notice of the lien, separately prepared for each lot affected, addressed to the last known owner of the property at his or her last known address, as determined by the real property assessment roll in the county in which the nonresidential property is located; and

(b) Filing with the county recorder of the county in which the nonresidential property is located, a statement of the amount due and unpaid and describing the property subject to the lien.

6. *A special assessment authorized pursuant to paragraph (b) of subsection 4 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.*

7. *As used in this section, "nonresidential property" means all real property other than residential property. The term does not include real property owned by a governmental entity.*

Sec. 16. NRS 268.4075 is hereby amended to read as follows:

268.4075 ~~[As used in this section, NRS 268.408 and 268.4085, "graffiti"]~~

1. "Graffiti" means any unauthorized inscription, word, figure or design that is marked, etched, scratched, drawn, ~~for~~ painted on or affixed to the public or private property, real or personal, of another, including, without limitation, an estray or one or more head of livestock, which defaces such property.

2. The term does not include any item affixed to property which may be removed:

(a) By hand without defacing the property;

(b) Through the use of a chemical or cleaning solvent commonly used for removing an adhesive substance without defacing the property; or

(c) Without the use of a decal remover tool.

3. As used in this section, "decal remover tool" means any device using power or heat to remove an adhesive substance.

Sec. 17. NRS 268.408 is hereby amended to read as follows:

268.408 1. The governing body of a city shall remove or cover all evidence that graffiti has been placed on any real or personal property which it owns or otherwise controls within 15 days after it discovers the graffiti or as soon as practicable.

2. The governing body of a city may bring an action against a person responsible for placing graffiti on the property of the city to recover a civil penalty and damages ~~[for the cost of removing or covering the graffiti placed on such property.] pursuant to the provisions of NRS 206.345.~~

Sec. 18. NRS 268.4085 is hereby amended to read as follows:

268.4085 1. The governing body of each city shall create a graffiti reward and abatement fund. The money in the fund must be used *to purchase*

supplies or pay for other costs incurred by the city which are directly related to graffiti abatement or to pay a reward to a person who, in response to the offer of a reward, provides information which results in the identification, apprehension ~~and~~ or conviction of a person who is alleged to have violated or who violates a city ordinance that prohibits graffiti or other defacement of property.

2. When a defendant pleads or is found guilty or guilty but mentally ill of violating a city ordinance that prohibits graffiti or other defacement of property, the court shall include an administrative assessment of \$250 for each violation in addition to any other fine or penalty. The money collected must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for credit to the graffiti reward and abatement fund.

3. If sufficient money is available in the graffiti reward and abatement fund, a law enforcement agency for the city may offer a reward, not to exceed \$1,000, for information leading to the identification, apprehension ~~and~~ or conviction of a person who is alleged to have violated or who violates a city ordinance that prohibits graffiti or other defacement of property.

4. *The money to purchase supplies or pay for other costs incurred by the city which are directly related to graffiti abatement or to pay a reward must be paid out of the graffiti reward and abatement fund upon approval of the city manager, the authorized designee of the city manager or, if the city does not have a city manager, the governing body of the city.*

Sec. 19. Nothing in this act may be construed to limit the ability of a county or city to enforce any ordinance or regulation relating to the abatement of graffiti adopted before, on or after October 1, 2015.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 314 to Senate Bill No. 56 does the following: expands the definition of graffiti to cover certain "unauthorized" inscriptions attached to public or private property; revises the definition of "graffiti" to exclude "any item affixed to property which may be removed by hand or through the use of a chemical or cleaning solvent commonly used for removing an adhesive substance without defacing the property, or without the use of a decal removal tool; revises the definition of "graffiti implement" to include a "carbide-tipped instrument" or other item that may be used to propel or apply "any substance" that is not water-soluble or to etch or deface property; ensures that counties or cities that currently have graffiti abatement programs in place will be able to continue them under the provisions of this bill; defines residential property as an owner-occupied single-family residence and non-owner-occupied single-family residences as nonresidential property for the purposes of graffiti abatement; and deletes certain limitations on areas from which graffiti can be removed from single-family residences and nonresidential property.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 154.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 88.

SUMMARY—Revises provisions relating to common-interest communities. (BDR 10-725)

AN ACT relating to common-interest communities; requiring the adoption of regulations concerning continuing education requirements for community managers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations governing the issuance of certificates for community managers. (NRS 116A.410) This bill specifies that the Commission must adopt regulations for the renewal of such certificates, including certain regulations for the satisfaction of continuing education requirements.

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

Section 1. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate. The regulations must include, without limitation, provisions that:

(1) Provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Holds a professional designation in the field of management of a common-interest community from a nationally recognized organization;

(II) Provides evidence that the person has been engaged in the management of a common-interest community for at least 5 years; and

(III) Has not been the subject of any disciplinary action in another state in connection with the management of a common-interest community.

(2) Except as otherwise provided in subparagraph (3), provide for the issuance of a temporary certificate for a 1-year period to a person who:

(I) Receives an offer of employment as a community manager from an association or its agent; and

(II) Has management experience determined to be sufficient by the executive board of the association or its agent making the offer in sub-subparagraph (I). The executive board or its agent must have sole discretion to make the determination required in this sub-subparagraph.

(3) Require a temporary certificate described in subparagraph (2) to expire before the end of the 1-year period if the certificate holder ceases to be employed by the association, or its agent, which offered the person employment as described in subparagraph (2).

(4) Require a person who is issued a temporary certificate as described in subparagraph (1) or (2) to successfully complete not less than 18 hours of

instruction relating to the Uniform Common-Interest Ownership Act within the 1-year period.

(5) Provide for the issuance of a certificate at the conclusion of the 1-year period if the person:

(I) Has successfully completed not less than 18 hours of instruction relating to the Uniform Common-Interest Ownership Act; and

(II) Has not been the subject of any disciplinary action pursuant to this chapter or chapter 116 of NRS or any regulations adopted pursuant thereto.

(6) Provide that a temporary certificate described in subparagraph (1) or (2) and a certificate described in subparagraph (5):

(I) Must authorize the person who is issued a temporary certificate described in subparagraph (1) or (2) or certificate described in subparagraph (5) to act in all respects as a community manager and exercise all powers available to any other community manager without regard to experience; and

(II) Must not be treated as a limited, restricted or provisional form of a certificate.

(b) May require applicants to pass an examination in order to obtain a certificate other than a temporary certificate described in paragraph (a). If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

(d) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

(e) Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

(f) Must establish rules of practice and procedure for conducting disciplinary hearings.

(g) *Must establish the qualifications for the renewal of a certificate, including, without limitation, the hours of continuing education required to obtain such a renewal. The regulations must include, without limitation, provisions that:*

(1) Require the certificate to be renewed biennially.

(2) Authorize the satisfaction of not more than 5 of the required hours of continuing education, which must be designated as instruction relating to the provisions of this chapter and chapter 116 of NRS and any regulations

adopted pursuant thereto, in increments of 1 hour, within the 2 years immediately preceding the date on which the certificate expires by:

(I) Observation of a disciplinary hearing conducted by the Commission, the hours of attendance at which may be used to fulfill any hours of instruction relating to federal, state or local laws and regulations applicable to the management of a common-interest community the Commission may require; or

(II) With the permission of the parties involved, attendance as an observer at any mediation ~~for~~ arbitration or other process of alternative dispute resolution arising from a claim which is within the jurisdiction of the Division.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

3. As used in this section, "management experience" means experience in a position in business or government, including, without limitation, in the military:

(a) In which the person holding the position was required, as part of holding the position, to engage in one or more management activities, including, without limitation, supervision of personnel, development of budgets or financial plans, protection of assets, logistics, management of human resources, development or training of personnel, public relations, or protection or maintenance of facilities; and

(b) Without regard to whether the person holding the position has any experience managing or otherwise working for an association.

Sec. 2. 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.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 88 to Senate Bill No. 154 clarifies that the newly approved education provided for in the bill will be designated as legal education relating to chapters 116 and 116A of the *Nevada Revised Statutes* and the *Nevada Administrative Code*.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 155.

Bill read second time.

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

Amendment No. 220.

SUMMARY—Revises provisions relating to farm vehicles and implements of husbandry. (BDR 32-707)

AN ACT relating to implements of husbandry; providing for the refund of certain taxes paid by a farmer or rancher on bulk purchases of special fuels; revising the definition of "implement of husbandry"; revising certain provisions relating to farm vehicles and implements of husbandry; revising certain provisions relating to the operation, towing or transportation of implements of husbandry on the highways of this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person who the Department of Motor Vehicles determines is a bona fide farmer or rancher to claim a refund of 80 percent of the taxes paid by the farmer or rancher on bulk purchases of motor vehicle fuel without the necessity of maintaining records of use pertaining to such motor vehicle fuel. (NRS 365.445) Section 1 of this bill authorizes a farmer or rancher to claim a similar refund of taxes paid on bulk purchases of special fuel.

Under existing law, implements of husbandry, which are certain vehicles used for agricultural purposes and which may incidentally be operated on the highways of this State, are exempt from certain requirements concerning motor vehicle registration. (NRS 482.210) Section 6 of this bill consolidates into the term "implement of husbandry" the vehicles and agricultural equipment variously described in existing law as "farm equipment," "farm tractors" and "implements of husbandry ~~[-"]~~," and includes within the term those farm vehicles that are used exclusively by a farmer or rancher for agricultural purposes on the farm or ranch. Section 6 also excludes from the definition of "implement of husbandry" certain vehicles, including: (1) farm vehicles ~~[-"]~~, other than farm vehicles used exclusively by a farmer or rancher for agricultural purposes on the farm or ranch; (2) truck tractors, motor trucks and vehicles designed for use on a controlled access highway; (3) vehicles used in the operation of a common motor carrier or contract motor carrier; (4) vehicles used for both personal purposes and agricultural purposes; (5) feed or water trucks used even incidentally for purposes other than agricultural purposes; and (6) vehicles registered for operation interstate. Sections 2, 4 and 7-9 of this bill make conforming changes.

Section 5 of this bill revises provisions governing the operation, towing and transportation of implements of husbandry on the highways of this State to require, under certain circumstances, that a person who engages in such activity apply for and obtain from the Department a farm license plate ~~and decal~~, which must be displayed on the implement of husbandry. Section 5 also revises the fee for a farm license plate to provide that the fee is \$100 for a permanent farm plate rather than the existing annual fee of \$20.50. Under section 5, the Department of Motor Vehicles may suspend or revoke a farm license plate if the person to whom it is issued fails to maintain certain liability insurance as required by existing law. Finally, section 5 provides that, instead of a farm license plate, a reflective placard for slow-moving vehicles approved by the United States Department of Transportation may be

displayed on certain implements of husbandry that are operated or transported on the highways of this State.

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

Section 1. Chapter 366 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Any person determined by the Department to be a bona fide farmer or rancher, not engaged in other activities which would distort his or her highway usage, may claim a refund only on the basis of 80 percent of his or her bulk purchases of special fuel, without the necessity of maintaining records of use.*

2. *Any farmer or rancher desiring to claim a refund under the provisions of this section must first secure a permit from the Department, and such a permit shall bind the permittee to file claims for refunds under the provisions of this section until a request has been made for a change of basis for filing, which request has been approved by the Department.*

3. *The provisions of this section do not exempt any person from any requirement to maintain records of use otherwise applicable to bulk purchases pursuant to any other state or federal law.*

4. *The Department may adopt such regulations as it determines necessary to carry out the purposes of this section, including, without limitation, any regulations relating to the determination of the amount of the refund available to a person who claims a refund pursuant to this section and who files a request for reimbursement pursuant to NRS 373.083.*

5. *For the purposes of this section, "bulk purchases" means purchases of more than 50 gallons of special fuel which are not placed directly into the tanks of motor vehicles.*

Sec. 2. NRS 366.203 is hereby amended to read as follows:

366.203 1. Special fuel, other than compressed natural gas, liquefied petroleum gas or kerosene, which is exempt from the tax pursuant to subsection 3 or 4 of NRS 366.200 must be dyed before it is removed for distribution from a rack. The dye added to the exempt special fuel must be of the color and concentration required by the regulations adopted by the Secretary of the Treasury pursuant to 26 U.S.C. § 4082.

2. Except as otherwise provided in subsections 3 and 4, a person shall not operate or maintain on any highway in this State a motor vehicle which contains dyed special fuel in the fuel tank of that vehicle. A person who operates or maintains a motor vehicle in violation of this subsection and the registered owner of the motor vehicle are jointly and severally liable for any taxes, penalties and interest payable to the Department.

3. A person who, pursuant to subsection 2, 3 or 4 of NRS 366.200, is exempt from the tax imposed by this chapter may operate or maintain a motor vehicle on a highway in this State which contains dyed special fuel in the fuel tank of that *motor* vehicle.

4. A person may operate or maintain on a highway in this State any special mobile equipment that is incidentally operated or moved upon a highway or ~~{farm equipment}~~ *an implement of husbandry* which contains dyed special fuel in the fuel tank of the special mobile equipment or ~~{farm equipment}~~ *implement of husbandry*. As used in this subsection:

(a) ~~"Farm equipment" means any self propelled machinery or motor vehicle that is designed solely for tilling soil or for cultivating, harvesting or transporting crops or other agricultural products and which is not required to be registered with the Department. The term includes a tractor, baler or swather, any implement used to retrieve hay, or any special mobile equipment that is used for farming purposes. The term does not include a truck tractor or any other vehicle primarily used for hauling loads long distances over a public highway.~~

~~—(b) "Highway" does not include a controlled-access highway as defined in NRS 484A.060.~~

~~{(c) "Truck tractor" has the meaning ascribed to it in NRS 482.130.~~

~~—(d) "Vehicle" has the meaning ascribed to it in NRS 482.135.}~~

~~(b) "Implement of husbandry" has the meaning ascribed to it in NRS 484D.020.~~

5. There is a rebuttable presumption that all special fuel which is not dyed special fuel and which is sold or distributed in this State is for the purpose of propelling a motor vehicle.

6. The Department shall, by regulation, define "incidentally operated or moved upon a highway" for purposes of this section.

Sec. 3. NRS 482.036 is hereby amended to read as follows:

482.036 "Farm vehicle" means any vehicle or combination of vehicles which is:

1. Controlled and operated by a farmer or rancher;
2. Used to transport ~~{his or her own}~~ livestock, agricultural products, or ranch or farm machinery or supplies to or from a ranch or farm; and
3. Not used in the operation of a common *motor carrier* or contract *motor carrier*.

Sec. 4. NRS 482.210 is hereby amended to read as follows:

482.210 1. The provisions of this chapter requiring the registration of certain vehicles do not apply to:

- (a) Special mobile equipment.
- (b) Implements of husbandry . ~~{temporarily drawn, moved or otherwise propelled upon the highways.}~~

(c) Any mobile home or commercial coach subject to the provisions of chapter 489 of NRS.

(d) Electric bicycles.

(e) Golf carts which are:

(1) Traveling upon highways properly designated by the appropriate city or county as permissible for the operation of golf carts; and

(2) Operating pursuant to a permit issued pursuant to this chapter.

(f) Mopeds.

(g) Towable tools or equipment as defined in NRS 484D.055.

(h) Any motorized conveyance for a wheelchair, whose operator is a person with a disability who is unable to walk about.

2. For the purposes of this section, "motorized conveyance for a wheelchair" means a vehicle which:

(a) Can carry a wheelchair;

(b) Is propelled by an engine which produces not more than 3 gross brake horsepower, has a displacement of not more than 50 cubic centimeters or produces not more than 2250 watts final output;

(c) Is designed to travel on not more than three wheels; and

(d) Can reach a speed of not more than 30 miles per hour on a flat surface with not more than a grade of 1 percent in any direction.

➔ The term does not include a tractor.

Sec. 5. NRS 482.276 is hereby amended to read as follows:

482.276 Notwithstanding any provision of this chapter to the contrary:

1. Any agricultural user who wishes ~~{to obtain a license plate and decal}~~ to operate ~~{a farm tractor or self-propelled}~~ or tow an implement of husbandry which is designed to operate at a speed of 25 miles per hour or more on the highways of this State, to operate an implement of husbandry on ~~{the highways}~~ a highway of this State ~~{may}~~ with a posted speed limit greater than 35 miles per hour or to transport a nonmotorized implement of husbandry on the highways of this State must submit an application to the Motor Carrier Division of the Department ~~{,}~~ and obtain from the Division a farm license plate ~~and decal~~. Each application must be made upon the appropriate form furnished by the Department. The application must include a nonrefundable fee of ~~{ \$20.50 — \$20 }~~ \$100 plus the amount of the fee prescribed by NRS 482.268 and evidence satisfactory to the Department that the agricultural user is the holder of a policy of liability insurance which provides at least \$300,000 in coverage for bodily injury and property damage resulting from any single accident caused by the agricultural user while operating the ~~{farm tractor or self-propelled}~~ implement of husbandry ~~{,}~~ on the highways of this State. As soon as practicable after receiving the application, fee and evidence of insurance, the Department shall issue the farm license plate ~~{and decal}~~ to the agricultural user to affix to the ~~{farm tractor or self-propelled}~~ implement of husbandry. ~~{A decal issued pursuant to this subsection expires on December 31 of the year in which the Department issues the decal.}~~ The farm license plate ~~{and decal are}~~ is not transferable and must be surrendered or returned to the Department within 60 days after ~~{,}~~

~~{(a) A} a transfer of ownership or interest in the {farm tractor or self-propelled} implement of husbandry occurs. {, or}~~

~~{(b) The decal expires pursuant to this subsection and the agricultural user fails to submit an application for renewal pursuant to subsection 2.}~~

2. ~~[An application for the renewal of]~~ *The Department shall suspend a farm license plate [and decal] issued pursuant to subsection 1 [must be made upon the appropriate form furnished by the Department. The application for renewal must include a nonrefundable fee of \$10 and evidence satisfactory to the Department that the agricultural user is] and require the return of the license plate to the Department if the agricultural user is not the holder of a policy of liability insurance specified in subsection 1. [As soon as practicable after receiving the application for renewal, fee and]* *The Department shall reissue the farm license plate only upon evidence [of] satisfactory to the Department that the agricultural user is the holder of a policy of liability insurance [; the Department shall issue a new decal to affix to the farm license plate. A decal issued pursuant to this subsection expires on December 31 of the year in which the Department issues the decal.] which meets the requirements of subsection 1 and the payment of a nonrefundable fee of \$100 plus the amount of the fee prescribed by NRS 482.268.*

3. A farm license plate issued pursuant to subsection 1 must be displayed on the ~~[farm tractor or self-propelled]~~ implement of husbandry in such a manner that the license plate is easily visible from the rear of the ~~[farm tractor or self-propelled]~~ implement of husbandry. If the farm license plate is lost or destroyed, the Department may issue a replacement plate upon the payment of ~~[a fee of 50 cents.] the fee prescribed by NRS 482.268. [If the decal is lost or destroyed, the Department may, upon the payment of the fee specified in subsection 2, issue a replacement decal for the farm tractor or self-propelled implement of husbandry.]~~

4. Any motorized implement of husbandry designed to operate at a speed of 25 miles per hour or less and which is operated on the highways of this State must display a farm license plate issued pursuant to subsection 1 or a reflective placard for slow-moving vehicles that is approved for such use by the United States Department of Transportation.

5. Any nonmotorized implement of husbandry transported on the highways of this State must be transported in combination with a properly registered motor vehicle or a motorized implement of husbandry which displays a farm license plate issued pursuant to subsection 1 or a reflective placard for slow-moving vehicles that is approved for such use by the United States Department of Transportation.

6. If an implement of husbandry displays a reflective placard for slow-moving vehicles as authorized by subsection 4 or 5, the placard must be displayed on the rear of the implement of husbandry as near as practicable to the center of the implement of husbandry, must be entirely visible in daylight and must be visible at night from all distances between 100 feet and 600 feet from the rear when directly in front of lawful upper-beam headlamps. The display of such a placard is in addition to any warning device otherwise required by chapters 484A to 484E, inclusive, of NRS, including, without limitation, any tail lamps, reflectors, flashing lights or

warning flags. A placard displayed pursuant to this section must not be used as a clearance marker for wide equipment.

7. Notwithstanding any provision of chapter 445B of NRS to the contrary, an agricultural user is not required to obtain a certificate of compliance or vehicle inspection report concerning the control of emissions from ~~{a farm tractor or self-propelled}~~ *an* implement of husbandry before obtaining a farm license plate ~~{and decal}~~ for or operating the ~~{farm tractor or self-propelled}~~ implement of husbandry pursuant to this section.

~~{5.}~~ 8. As used in this section ~~{, "agricultural"}~~ :

(a) "Agricultural user" means any person who owns or operates ~~{a farm tractor or self-propelled}~~ *an* implement of husbandry specified in subsection 1 for an agricultural use. As used in this subsection, "agricultural use" has the meaning ascribed to it in NRS 361A.030.

(b) "Implement of husbandry" has the meaning ascribed to it in NRS 484D.020.

Sec. 6. NRS 484D.020 is hereby amended to read as follows:

484D.020 1. "Implement of husbandry" means ~~{every}~~ *a* vehicle manufactured, designed ~~{and adapted}~~ *or reconstructed* exclusively for agricultural ~~{, horticultural or livestock raising}~~ operations ~~{or for lifting or carrying an implement of husbandry and in either case}~~ *and primarily designed for off-highway use. An implement of husbandry is not subject to registration if used upon the highways* ~~{,}~~ *of this State.*

2. The term includes:

(a) *A farm vehicle that is used by a farmer or rancher exclusively for agricultural purposes on the farm or ranch of the farmer or rancher;*

(b) A farm tractor;

~~{(b)}~~ *(c) A self-propelled application-type vehicle, including a combine, self-propelled forage harvester or self-propelled fertilizer application implement;*

~~{(c)}~~ *(d) A farm wagon, farm trailer or trailer adapted to tow or pull another implement of husbandry;*

~~{(d)}~~ *(e) Any vehicle used by a farmer or rancher exclusively to feed or water livestock; and*

~~{(e)}~~ *(f) Any other equipment substantially similar to the equipment described in paragraphs (a) to* ~~{(d)}~~ *(e), inclusive, and used to transport agricultural products necessary for agricultural production.*

3. The term does not include:

(a) ~~{4.}~~ *Except as otherwise provided in paragraph (a) of subsection 2, a farm vehicle;*

(b) *A truck tractor, motor truck or any vehicle designed for use on a controlled access highway;*

(c) *Any vehicle used in the operation of a common motor carrier or contract motor carrier;*

(d) *Any vehicle used for both personal purposes and agricultural purposes;*

(e) Any feed or water truck used even incidentally for purposes other than agricultural purposes; or

(f) Any vehicle which is registered for operation interstate pursuant to chapter 706 of NRS.

4. As used in this section, "farm vehicle" has the meaning ascribed to it in NRS 482.036.

Sec. 7. NRS 484D.170 is hereby amended to read as follows:

484D.170 1. Every ~~farm tractor and every self propelled unit of farm equipment or~~ implement of husbandry manufactured after January 1, 1970, shall be equipped with vehicular hazard-warning lamps of a type described in NRS 484D.205, visible from a distance of not less than 1,000 feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.

2. Every ~~farm tractor and every self propelled unit of farm equipment or~~ implement of husbandry manufactured after January 1, 1970, shall at all times, and every other such vehicle shall, during the times mentioned in NRS 484D.100, be equipped with lamps and reflectors as follows:

(a) At least two headlamps meeting the requirements of NRS 484D.210.

(b) At least one red lamp visible when lighted from a distance of not less than 1,000 feet to the rear, mounted as far to the left of the center of the vehicle as practicable.

(c) At least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps.

3. Every combination of farm tractor and towed ~~farm equipment or~~ implement of husbandry shall at all times mentioned in NRS 484D.100 be equipped with lamps and reflectors as follows:

(a) The farm tractor shall be equipped as required in subsections 1 and 2.

(b) If the towed unit extends more than 4 feet to the rear of the tractor or obscures any lamp on the tractor, such unit shall be equipped on the rear with at least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps.

(c) If the towed unit extends more than 4 feet to the left of the centerline of the tractor, such unit shall be equipped on the front with an amber reflector visible from all distances within 600 feet to 100 feet to the front when directly in front of lawful beams of headlamps. Such reflector shall be so positioned as to indicate, as nearly as practicable, the extreme left projection of the towed unit.

4. The two red reflectors required by subsection 3 shall be so positioned as to show from the rear, as nearly as practicable, the extreme width of the vehicle or combination carrying them.

Sec. 8. NRS 484D.600 is hereby amended to read as follows:

484D.600 1. Except as otherwise provided in this section, a person shall not drive, move, stop or park any vehicle or combination of vehicles,

and an owner shall not cause or knowingly permit any vehicle or combination of vehicles to be driven, moved, stopped or parked, on any highway if the vehicle or combination of vehicles exceeds in size or weight or gross loaded weight the maximum limitation specified by law for that size, weight and gross loaded weight unless the person or owner is authorized to drive, move, stop or park the vehicle or combination of vehicles by a special permit issued by the proper public authority.

2. If the Department of Transportation or a local law enforcement agency determines that an emergency exists, the Department or the local law enforcement agency may authorize a person to drive, move, stop or park a vehicle or combination of vehicles without obtaining a special permit pursuant to subsection 1. Such an authorization may be given orally and may, if requested by a local law enforcement agency or a public safety agency, include driving or moving the vehicle or combination of vehicles to and from the site of the emergency. If a person receives such an authorization, the person shall, on the next business day after receiving the authorization, obtain a special permit pursuant to subsection 1.

3. This section does not apply to:

(a) Fire apparatus, highway machinery or snowplows temporarily moved upon a highway.

(b) ~~[A farm tractor or other]~~ An implement of husbandry temporarily moved upon a highway other than an interstate highway or a controlled-access highway.

Sec. 9. NRS 706.071 is hereby amended to read as follows:

706.071 "Farm vehicle" means any vehicle or combination of vehicles which is:

1. Controlled and operated by a farmer or rancher;
2. Used to transport ~~[the farmer's or rancher's own]~~ livestock, agricultural products, or ranch or farm machinery or supplies to or from a ranch or farm; and
3. Not used in the operation of a common *motor carrier* or contract *motor carrier*.

Sec. 10. 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.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Amendment No. 220 to Senate Bill No. 155 clarifies that the term implement of husbandry includes a farm vehicle that is used by a farmer or rancher exclusively for agricultural purposes on the farm or ranch of the farmer or rancher.

The amendment deletes provisions related to the \$20 annual fee and decal to be issued by the Department of Motor Vehicles for an implement of husbandry to be operated on a highway of this State and instead requires a \$100 fee to be paid for a permanent farm license plate to be issued for an implement of husbandry to be operated on a highway of this State.

Finally, the amendment authorizes the Department of Motor Vehicles to suspend or revoke a farm license plate if the person the plate is issued to fails to maintain liability insurance of at least \$300,000 in coverage for bodily injury and property damage per accident.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 160.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 86.

SUMMARY—Enacts provisions governing the liability of owners, lessees or occupants of any premises for injuries to trespassers. (BDR 3-939)

AN ACT relating to actions concerning persons; enacting certain limitations of liability for owners, lessees or occupants of any premises for injuries to trespassers; providing immunity from certain civil actions for certain persons in connection with the display of public art; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Traditionally, at common law, the duty of care that an owner or other lawful occupant of real property owed to a person entering onto the property was determined by the person's status as an invitee, a licensee or a trespasser. Thus, an owner or occupant of real property had a duty to exercise ordinary care and prudence to render the property reasonably safe for the visit of an invitee or to warn the invitee of certain dangerous or unsafe conditions on the property. An owner or occupant of real property who failed to exercise due care was subject to civil liability for any harm to an invitee caused by that failure. (*Galloway v. McDonalds Restaurants of Nevada, Inc.*, 102 Nev. 534, 537 (1986)) In contrast, an owner or occupant of real property had no duty to a mere trespasser except to not wantonly or willfully injure the trespasser and to exercise due care to prevent injury to the trespasser after the owner or occupant discovered the trespasser's presence in a place of danger on the property. (*Crosman v. Southern Pac. Co.*, 44 Nev. 286, 300 (1921)) In 1994, however, the Nevada Supreme Court abandoned the principle of basing the liability of an owner or occupant of real property on the status of the person injured on the property. The Court adopted instead the principle that the owner or occupier of real property should be held to the general duty of reasonable care whenever another person is injured on that property and that determinations of liability should primarily depend on whether the owner or occupier acted reasonably under the circumstances. (*Moody v. Manny's Auto Repair*, 110 Nev. 320, 333 (1994))

~~[This]~~ Section 2 of this bill adopts the principle for determining the duty of care owed by an owner, lessee or occupant of any premises to a trespasser as it was at common law. ~~[This bill]~~ Section 2 also codifies in statute what is commonly known as the "attractive nuisance doctrine." This doctrine imposes a higher standard of care on an owner, lessee or occupant toward a

trespassing child who is injured by an artificial condition on the premises if: (1) the owner, lessee or occupant knows or reasonably should know that the condition is likely to attract children and involves an unreasonable risk of death or serious bodily injury; (2) the child is unlikely to appreciate the dangerousness of the condition because of his or her age; (3) the utility of maintaining the condition and eliminating the danger are slight as compared to the risk to the child; and (4) the owner, lessee or occupant fails to exercise reasonable care to eliminate the danger or to otherwise protect the trespassing child.

Section 3 provides that, subject to certain conditions, a person who creates, sponsors, owns or produces public art or who owns, leases or occupies any estate or interest in any premises where such art is displayed is not liable for the death or injury of a person or for damage to property caused or sustained by a person who: (1) defaces or destroys, or attempts to deface or destroy, public art; (2) uses the public art in an unintended manner; or (3) fails to heed certain posted warnings or instructions concerning the public art. Section 3 also defines "public art" for such purposes.

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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto ~~the~~ a new section to read as follows: the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Except as otherwise provided in this section, an owner of any estate or interest in any premises, or a lessee or an occupant of any premises, owes no duty of care to a trespasser and is not liable to a trespasser for physical harm caused by the failure to exercise reasonable care to put the premises in a condition that is reasonably safe for the entry or use by a trespasser or to carry on activities on the premises so as not to endanger a trespasser.

2. An owner, lessee or occupant of premises may be subject to liability for harm to a trespasser if:

(a) The owner, lessee or occupant willfully or wantonly causes harm to the trespasser;

(b) The owner, lessee or occupant fails to exercise reasonable care to prevent harm to the trespasser after discovering the trespasser's presence in a place of danger on the premises; or

(c) The trespasser is a child who is injured by an artificial condition on the premises and:

(1) The place where the condition exists is one on which the owner, lessee or occupant knows or has reason to know that a child is likely to trespass;

(2) The condition is one that the owner, lessee or occupant knows or has reason to know and that the owner, lessee or occupant realizes or should realize involves an unreasonable risk of death or serious bodily harm to a trespassing child;

(3) *The trespassing child, because of his or her youth, does not discover the condition or realize the risk involved in the condition or coming within the area made dangerous by it;*

(4) *The utility to the owner, lessee or occupant of maintaining the condition and the burden of eliminating the danger are slight as compared with the risk to the trespassing child; and*

(5) *The owner, lessee or occupant fails to exercise reasonable care to eliminate the danger or to otherwise protect the trespassing child from harm.*

3. *This section does not affect any immunity from or defenses to civil liability established by specific statute or available at common law to which an owner, lessee or occupant may be entitled.*

4. As used in this section, "trespasser" means any person who enters or remains upon any premises owned, leased or occupied by another person without the express or implied consent of the owner, lessee or occupant of the premises.

Sec. 3. 1. Except as otherwise provided in this section, a person who creates, sponsors, owns or produces public art, or who owns, leases or occupies any estate or interest in any premises where such art is displayed, is not liable for the death or injury of a person or for damage to property caused or sustained by a person who:

(a) Defaces or destroys, or attempts to deface or destroy, public art;

(b) Uses the public art in an unintended manner; or

(c) Fails to heed posted warnings or instructions concerning the public art if such warnings are posted to warn the public against any foreseeable conditions or any misuse of the public art that may pose an unreasonable risk of death or serious bodily injury.

2. This section does not eliminate a person's duty to remedy or mitigate a condition that has actually caused two or more instances of serious bodily injury.

3. As used in this section, "public art":

(a) Except as otherwise provided in paragraph (b), means a work of art which:

(1) Is an original painting in oil, mineral, water colors, vitreous enamel, pastel or other medium, an original mosaic, drawing or sketch, an original sculpture of stone, clay, textiles, fiber, wood, metal, plastic, glass or a similar material, an original work of mixed media or a lithograph;

(2) Was purchased in an arm's length transaction for \$25,000 or more, or has an appraised value of \$25,000 or more;

(3) Is displayed in a building or indoor or outdoor premises generally open to the public, whether publicly or privately owned; and

(4) Is made available to be viewed by the public without charge; and

(b) Does not include:

(1) Performance art;

(2) Literary works;

(3) Property used in the performing arts, including, without limitation, scenery or props for a stage production;

(4) A product of filmmaking or photography, including, without limitation, motion pictures; or

(5) Property that was created for a functional use other than, or in addition to, its aesthetic qualities, including, without limitation, a classic or custom-built automobile or boat, a sign that advertises a business, and custom or antique furniture, lamps, chandeliers, jewelry, mirrors, doors or windows.

~~{Sec. 2.}~~ Sec. 4. This act becomes effective upon passage and approval.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 160 does two things: 1) defines a "trespasser" as any person who enters or remains upon any premises owned, leased or occupied by another without express or implied consent; 2) adds new language to chapter 41 of *Nevada Revised Statutes* providing immunity from liability to "a person who creates, sponsors, owns or produces public art, or the owner, lessee, or occupant of any estate or interest in any premises where such art is displayed."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 251.

Bill read second time and ordered to third reading.

Senate Bill No. 268.

Bill read second time.

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

Amendment No. 382.

SUMMARY—Provides certain services for veterans. (BDR 37-1042)

AN ACT relating to veterans; creating the Account to Assist Veterans Who Have Suffered Sexual Trauma and prescribing the uses of the money in the Account; requiring the Director of the Department of Veterans Services to submit to the Interim Finance Committee an annual report detailing expenditures made from the Account; requiring the Department to develop plans and programs to assist veterans who have suffered sexual trauma while on active duty or during military training; ~~establishing an interim study to research issues relating to homeless veterans and veterans who have suffered sexual trauma while on active duty or during military training;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Department of Veterans Services and requires the Director and Deputy Director of the Department to undertake certain activities to support veterans in this State. (NRS 417.020, 417.090) Section ~~1.1~~ 1.5 of this bill requires the Director and Deputy Director to

develop plans and programs to assist veterans who have suffered sexual trauma while on active duty or during military training.

Section 1 of this bill: (1) creates in the State General Fund the Account to Assist Veterans Who Have Suffered Sexual Trauma to be administered by the Director of the Department; (2) authorizes the Director to apply for grants and accept gifts, grants, donations and any other source of money for deposit in the Account; (3) limits the use of money in the Account to assisting veterans who have suffered sexual trauma while on active duty or during military training; and (4) requires the Director to submit an annual report to the Interim Finance Committee detailing the expenditures made from the Account.

~~[Section 2 of this bill establishes an interim study committee to research issues related to: (1) veteran homelessness in this State; (2) the rate of unemployment of homeless veterans in this State; and (3) veterans who have suffered sexual trauma while on active duty or during military training.]~~

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

Section 1. Chapter 417 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Account to Assist Veterans Who Have Suffered Sexual Trauma is hereby created in the State General Fund. The Director shall administer the Account.

2. The Director may apply for any available grants and accept gifts, grants, donations and any other source of money for deposit in the Account.

3. Money deposited in the Account and any interest and income earned on such money must be used only to assist veterans who have suffered sexual trauma while on active duty or during military training. The interest and income earned on money in the Account, after deducting any applicable charges, must be credited to the Account. All money in the Account must be paid out on claims approved by the Director as other claims against the State are paid. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, but must be carried forward to the next fiscal year.

4. The Director shall, on or before August 1 of each year, prepare and submit to the Interim Finance Committee a report detailing the expenditures made from the Account.

~~[Section 1.]~~ *Sec. 1.5. NRS 417.090 is hereby amended to read as follows:*

417.090 The Director and the Deputy Director shall:

1. Assist veterans, and those presently serving in the military and naval forces of the United States who are residents of the State of Nevada, their wives, widows, widowers, husbands, children, dependents, administrators, executors and personal representatives, in preparing, submitting and presenting any claim against the United States, or any state, for adjusted compensation, hospitalization, insurance, pension, disability compensation,

vocational training, education or rehabilitation and assist them in obtaining any aid or benefit to which they may, from time to time, be entitled under the laws of the United States or of any of the states.

2. Aid, assist, encourage and cooperate with every nationally recognized service organization insofar as the activities of such organizations are for the benefit of veterans, servicemen and servicewomen.

3. Give aid, assistance and counsel to each and every problem, question and situation, individual as well as collective, affecting any veteran, serviceman or servicewoman, or their dependents, or any group of veterans, servicemen and servicewomen, when in their opinion such comes within the scope of this chapter.

4. Coordinate activities of veterans' organizations.

5. Serve as a clearinghouse and disseminate information relating to veterans' benefits.

6. Conduct any studies which will assist veterans to obtain compensation, hospitalization, insurance, pension, disability compensation, vocational training, education, rehabilitation or any other benefit to which veterans may be entitled under the laws of the United States or of any state.

7. Aid, assist and cooperate with the office of coordinator of services for veterans created in a county pursuant to NRS 244.401.

8. Pay to each county that creates the office of coordinator of services for veterans, from state money available to him or her, a portion of the cost of operating the office in an amount determined by the Director.

9. Take possession of any abandoned or unclaimed artifacts or other property that has military value for safekeeping. The Director or Deputy Director may transfer such property to a veterans' or military museum.

10. *Develop plans and programs to assist veterans who have suffered sexual trauma while on active duty or during military training.*

Sec. 2. ~~[1. The Legislative Commission shall appoint a committee to conduct an interim study to research various issues regarding veterans in this State.~~

~~2. The committee must be composed of six Legislators as follows:~~

~~(a) Two members appointed by the Majority Leader of the Senate;~~

~~(b) Two members appointed by the Speaker of the Assembly;~~

~~(c) One member appointed by the Minority Leader of the Senate; and~~

~~(d) One member appointed by the Minority Leader of the Assembly.~~

~~3. The Legislative Commission shall appoint a Chair and a Vice Chair from among the members of the committee.~~

~~4. The members of the committee serve terms of 2 years, beginning as soon as practicable on or after July 1, 2015, and ending on June 30, 2017. Any vacancy occurring in the membership of the committee must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.~~

~~5. The committee shall meet at least twice each year and may meet at such further times as deemed necessary by the Chair.~~

~~6. A majority of the members of the 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 committee.~~

~~7. The committee shall comply with the provisions of chapter 241 of NRS, and all meetings of the committee must be conducted in accordance with that chapter.~~

~~8. 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, except during a regular or special session of the Legislature, the member is entitled to receive the:~~

~~(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;~~

~~(b) Per diem allowance provided for state officers generally; and~~

~~(c) Travel expenses provided pursuant to NRS 218A.655.~~

~~The compensation, per diem allowances and travel expenses of the members of the committee must be paid from the Legislative Fund.~~

~~9. The committee shall research:~~

~~(a) The number of homeless veterans in this State, including, without limitation:~~

~~(1) An analysis of veterans in this State who are currently homeless or have been homeless within 5 years after being released from active duty service, broken down by gender; and~~

~~(2) Data on the number of children of homeless veterans in this State, including an analysis of the custodial status of such children and where they currently reside;~~

~~(b) The unemployment rate of homeless veterans in this State; and~~

~~(c) Issues relating to veterans in this State who have suffered sexual trauma while on active duty or during military training.~~

~~10. In carrying out its duties pursuant to this section, the committee may consult with natural persons and entities to include, without limitation:~~

~~(a) Persons and entities which advocate for the health, safety or well being of persons who are homeless.~~

~~(b) Persons and entities which advocate for the health, safety or well being of persons who have experienced sexual situations involving harassment, stress, threats or trauma.~~

~~(c) Representatives of the United States Department of Veterans Affairs.~~

~~(d) Persons and entities which advocate for the health, safety or well being of current or former members of the Armed Forces of the United States.~~

~~(e) Representatives of the United States Department of Defense.~~

~~11. The 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.~~

~~12. As used in this section, "veteran" has the meaning ascribed to it in NRS 417.005.] (Deleted by amendment.)~~

~~Sec. 3. [The Department of Veterans Services shall provide administrative and technical assistance to the committee appointed pursuant to section 2 of this act.] (Deleted by amendment.)~~

~~Sec. 4. [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. 5. This act becomes effective on July 1, 2015.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

The amendment to Senate Bill No. 268 does the following: 1) deletes the provisions creating the interim study; and 2) creates the Account to Assist Veterans Who Have Suffered Sexual Trauma in the State General Fund and prescribes the uses of the money in the Account. The Director of the Department of Veterans Services is required to submit to the Interim Finance Committee a report detailing the expenditures made from the Account on or before August 1 of each year.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 304.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 206.

SUMMARY—Revises provisions relating to the use of safety belts in taxicabs. (BDR 43-774)

AN ACT relating to motor vehicles; revising provisions relating to the use of safety belts in taxicabs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, with certain exceptions, each adult passenger who rides in a taxicab in this State is required to wear a safety belt. Existing law also provides that a violation of this requirement may not be considered: (1) as negligence or as causation in any civil action or as negligent or reckless driving; or (2) as misuse or abuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale or use of a product. (NRS 484D.500) This bill removes the preceding legal limitations ~~[, thus allowing]~~ and expressly allows a violation of the requirement to wear a safety belt while riding in a taxicab to be considered for those purposes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 484D.500 is hereby amended to read as follows:

484D.500 1. Any passenger 18 years of age or older who rides in the front or back seat of any taxicab on any highway, road or street in this State

shall wear a safety belt if one is available for the seating position of the passenger, except that this subsection does not apply:

(a) To a passenger who possesses a written statement by a physician certifying that the passenger is unable to wear a safety belt for medical or physical reasons; or

(b) If the taxicab was not required by federal law at the time of initial sale to be equipped with safety belts.

2. A citation must be issued to any passenger who violates the provisions of subsection 1. A citation may be issued pursuant to this subsection only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. Any person who violates the provisions of subsection 1 shall be punished by a fine of not more than \$25 or by a sentence to perform a certain number of hours of community service.

3. A violation of subsection 1 :

(a) Is ~~not~~ not a moving traffic violation under NRS 483.473.

(b) May ~~not~~ be considered as negligence or as causation in any civil action or as negligent or reckless driving under NRS 484B.653.

(c) May ~~not~~ be considered as misuse or abuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale or use of a product.

4. An owner or operator of a taxicab shall post a sign within each of his or her taxicabs advising passengers that they must wear safety belts while being transported by the taxicab. Such a sign must be placed within the taxicab so as to be visible to and easily readable by passengers, except that this subsection does not apply if the taxicab was not required by federal law at the time of initial sale to be equipped with safety belts.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 206 to Senate Bill No. 304 clarifies that the bill expressly allows for a person's failure to use a seatbelt while riding in a taxi cab to be considered as evidence in certain civil actions.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 310.

Bill read second time.

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

Amendment No. 281.

SUMMARY—Revises provisions relating to local government financing. (BDR 22-827)

AN ACT relating to local government financing; extending the termination date of certain tourism improvement districts; revising provisions governing the use of certain proceeds from the local school support tax to finance or

reimburse a tourism improvement district; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the adoption by a city or county of an ordinance creating a tourism improvement district and for the pledge of certain tax revenues generated within the district to finance the acquisition, improvement, equipping, operation and maintenance of a tourism improvement project within the district. (NRS 271A.070) Existing law also provides that any bonds issued to finance or refinance projects for the benefit of the district, any agreements for reimbursement of costs relating to such projects, and the agreement entered into between a municipality and the Department of Taxation specifying the dates and procedures for distribution of the pledged tax revenues must cease at the end of the fiscal year in which the 20th anniversary of the adoption of the ordinance creating the district occurs. (NRS 271A.100, 271A.120) Sections 1 and 2 of this bill effectively extend the life of a tourism improvement district to 25 years if the district is a district in which, during the first 5 full fiscal years of its existence, the amount of the money pledged to the financing of projects in the district and received by the municipality with respect to the district is equal to zero.

Existing law prohibits the governing body of a municipality from providing any financing or reimbursement to a tourism improvement district from the proceeds of the local school support tax collected from retailers that locate within the district on or after July 1, 2013. Existing law provides an exemption from this prohibition if the governing body obtains an opinion from independent bond counsel stating that the applicability of the prohibition would impair an existing contract for the sale of bonds that were issued before July 1, 2013. (NRS 271A.125) Section 3 of this bill provides a further exemption from this prohibition if the ~~[ordinance creating the]~~ district ~~[provides for a mitigation amount for the school district in which the tourism improvement district is located.]~~ is a district in which, during the first 5 full fiscal years of its existence, the amount of the money pledged to the financing of projects in the district and received by the municipality with respect to the district is equal to zero.

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

Section 1. NRS 271A.100 is hereby amended to read as follows:

271A.100 After the adoption of an ordinance creating a district in accordance with this chapter, the governing body of the municipality and the Department of Taxation shall enter into an agreement specifying the dates and procedure for distribution to the municipality of any money pledged pursuant to NRS 271A.070. The distributions must:

1. Be made not less frequently than once each calendar quarter; and
2. ~~[Cease]~~ *Except as otherwise provided in this subsection, cease* at the end of the fiscal year in which the 20th anniversary of the adoption of the ordinance creating the district occurs. *If the district is a district in which,*

during the first 5 full fiscal years after the creation of the ~~agreement~~ district, the amount of the money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district is equal to zero, the distributions must cease at the end of the fiscal year in which the 25th anniversary of the adoption of the ordinance creating the district occurs.

Sec. 2. NRS 271A.120 is hereby amended to read as follows:

271A.120 1. Except as otherwise provided in this section, if the governing body of a municipality adopts an ordinance pursuant to NRS 271A.070, the municipality may:

(a) Issue, at one time or from time to time, bonds or notes as special obligations under the Local Government Securities Law to finance or refinance projects for the benefit of the district. Any such bonds or notes may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(b) Enter into an agreement with one or more governmental entities or other persons to reimburse that entity or person for the cost of acquiring, improving or equipping, or any combination thereof, any project, which may contain such terms as are determined to be desirable by the governing body of the municipality, including the payment of reasonable interest and other financing costs incurred by such entity or other person. Any such reimbursements may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. Such an agreement is not subject to the limitations of subsection 1 of NRS 354.626 and may, at the option of the governing body, be binding on the municipality beyond the fiscal year in which it was made . ~~[, only if the agreement pertains solely to one or more projects that are owned by the municipality or another governmental entity.]~~

2. The governing body of a municipality shall not, with respect to any district created before, on or after July 1, 2011, provide any financing or reimbursement pursuant to this section:

(a) Except as otherwise provided in this paragraph, to any governmental entity for any project within the district if any nongovernmental entity is or was entitled to receive any financing or reimbursement from the municipality pursuant to this section under the original financing agreements for the initial projects within the district. This paragraph does not prohibit the provision of such financing or reimbursement to a governmental entity that is or was entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.

(b) To any person or other entity for any project within the district, other than a person or other entity that is or was entitled to receive such financing

or reimbursement from the municipality under the original financing agreements for the initial projects within the district, without the consent of all the persons and other entities that were entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.

3. Before the issuance of any bonds or notes pursuant to this section, the municipality must obtain the results of a feasibility study, commissioned by the municipality, which shows that a sufficient amount will be generated from money pledged pursuant to NRS 271A.070 to make timely payment on the bonds or notes, taking into account the revenue from any other revenue-producing projects also pledged for the payment of the bonds or notes, if any. A failure to make payments of any amounts due:

(a) With respect to any bonds or notes issued pursuant to subsection 1; or

(b) Under any agreements entered into pursuant to subsection 1,

↪ because of any insufficiency in the amount of money pledged pursuant to NRS 271A.070 to make those payments shall be deemed not to constitute a default on those bonds, notes or agreements.

4. No bond, note or other agreement issued or entered into pursuant to this section may be secured by or payable from the general fund of the municipality, the power of the municipality to levy ad valorem property taxes, or any source other than any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. No bond, note or other agreement issued or entered into pursuant to this section may ever become a general obligation of the municipality or a charge against its general credit or taxing powers, nor may any such bond, note or other agreement become a debt of the municipality for purposes of any limitation on indebtedness.

5. ~~[Any]~~ *Except as otherwise provided in this subsection, any bond or note issued pursuant to this section, including any bond or note issued to refund any such bond or note, must mature on or before, and any agreement entered pursuant to this section must automatically terminate on or before, the end of the fiscal year in which the 20th anniversary of the adoption of the ordinance creating the district occurs. If the district is a district in which, during the first 5 full fiscal years after the creation of the ~~agreement~~ district, the amount of the money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district is equal to zero, any bond or note issued pursuant to this section, including any bond or note issued to refund any such bond or note, must mature on or before, and any agreement entered pursuant to this section must automatically terminate on or before, the end of the fiscal year in which the 25th anniversary of the adoption of the ordinance creating the district occurs.*

Sec. 3. NRS 271A.125 is hereby amended to read as follows:

271A.125 1. The governing body of a municipality:

(a) Shall require the review of each claim submitted pursuant to any contract or other agreement made with the governing body to provide any financing or reimbursement pursuant to NRS 271A.120, by an independent auditor.

(b) Shall not:

(1) With respect to any district created on or after July 1, 2011, provide any financing or reimbursement pursuant to NRS 271A.120 for:

(I) Any legal fees, accounting fees, costs of insurance, fees for legal notices or costs to amend any ordinances.

(II) Any project that includes the relocation on or after July 1, 2011, to the district of any retail facilities of a retailer from another location outside of and within 3 miles of the boundary of the district. Each pledge of money pursuant to NRS 271A.070 shall be deemed to exclude any amounts attributable to any tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year by a retailer who, on or after July 1, 2011, relocates any of its retail facilities to the district from another location outside of and within 3 miles of the boundary of the district.

(2) Provide any financing or reimbursement pursuant to NRS 271A.120 from the proceeds of the taxes described in subparagraph (2) of paragraph (c) of subsection 1 of NRS 271A.070 that are collected from any retail facilities of a retailer which, on or after July 1, 2013, locates within the boundary of a district.

2. The provisions of subparagraph (2) of paragraph (b) of subsection 1 do not apply to the governing body of a municipality with respect to any district created before July 1, 2013, if:

~~(a) The ordinance creating the district provides for a mitigation amount to the school district is a district in which, during the first 5 full fiscal years after the creation of the district, the amount of the money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district is located, equal to zero; or~~

(b) The governing body obtains an opinion from independent bond counsel stating that the applicability of those provisions would impair an existing contract for the sale of bonds that were issued before July 1, 2013.

3. The owner of a project shall, upon request, provide to the Department of Taxation information that identifies the retail facilities that open or close within the project.

Sec. 4. This act becomes effective upon passage and approval.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Amendment No. 281 to Senate Bill No. 310 narrows the scope of the bill to apply only to the Tessera improvement district created in the blighted area in downtown Reno by clarifying the district is a district in which, during the first five full fiscal years after the creation of the district, the amount of the money pledged and received by the municipality with respect to the district is equal to zero.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 323.

Bill read second time and ordered to third reading.

Senate Bill No. 325.

Bill read second time.

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

Amendment No. 383.

SUMMARY—Revises provisions relating to state purchasing. (BDR 27-1024)

AN ACT relating to state governmental procurement; requiring the connection between the bidder and the State of Nevada to be considered as a factor with respect to certain state purchasing contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State must purchase any materials, supplies and equipment estimated to cost more than \$50,000 by formal contract from the lowest responsible bidder after advertising for the submission of bids. (NRS 333.300) When evaluating proposals to determine which is in the best interests of the State, several factors are required to be considered and weighed, including: (1) the experience and financial stability of the bidder; (2) whether the proposal complies with the request for proposals; (3) the price of the proposal; and (4) any other factor disclosed in the request for proposals. (NRS 333.335) ~~[Existing law also provides several factors that may be considered to determine the lowest responsible bidder for a contract or order for goods. (NRS 333.340) Existing law entitles a bid or proposal submitted by a local business owned by a veteran with a service connected disability to be deemed to have a price that is 5 percent lower than the actual price of the bid or proposal. (NRS 333.3361-333.3369)]~~

~~Section 1 of this bill~~ This bill revises the factors considered when determining whether a proposal is in the best interests of the State to require the consideration of a factor measuring the connection between the bidder and this State. Elements that may be considered to measure the connection between a bidder and this State include, without limitation: (1) the amount of state or local taxes paid to this State by the bidder; (2) the number of offices maintained in this State by the bidder; (3) the number of persons employed by or contracted with the bidder in this State; and (4) the amount of goods and commodities used by the bidder that are produced, manufactured or supplied in this State. ~~[Section 1]~~ This bill also requires that, when determining whether a proposal is in the best interests of the State, this factor must be given a relative weight ~~[which] that is [equal to or]~~ greater than the relative weight given to ~~[any other single]~~ at least one other factor. ~~[considered. Section 2 of this bill revises the factors considered to determine~~

~~the lowest responsible bidder for a contract or order for goods to contain similar provisions.]~~

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

Section 1. NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

(a) The chief of the using agency, or a committee appointed by the chief of the using agency in accordance with the regulations adopted pursuant to NRS 333.135, if the proposal is for a using agency; or

(b) The Administrator of the Purchasing Division, or a committee appointed by the Administrator in accordance with the regulations adopted pursuant to NRS 333.135, if the Administrator is responsible for administering the proposal.

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Administrator of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal. If the contract is being awarded for the Public Employees' Benefits Program, the Executive Officer of the Program may observe the activities of the committee, but may not vote or otherwise participate in the evaluation.

3. In making an award, the chief of the using agency, the Administrator of the Purchasing Division or each member of the committee, if a committee is established, shall consider and assign a score for each of the following factors for determining whether the proposal is in the best interests of the State of Nevada:

(a) The experience and financial stability of the person submitting the proposal;

(b) Whether the proposal complies with the requirements of the request for proposals as prescribed in NRS 333.311;

(c) The price of the proposal; ~~and~~

(d) *The connection between the person submitting the proposal and this State; and*

(e) Any other factor disclosed in the request for proposals.

4. *To evaluate the connection between the person submitting the proposal and this State pursuant to paragraph (d) of subsection 3, the chief of the using agency, the Administrator of the Purchasing Division or each member of the committee, if a committee is established, shall consider criteria which include, without limitation:*

(a) The amount of taxes paid to the State or its political subdivisions by the person submitting the proposal during the immediately preceding 5 years, including, without limitation, the amounts paid in property taxes, sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS, governmental services taxes imposed pursuant to chapter 371 of NRS and excise taxes imposed upon an employer pursuant to NRS 363B.110;

(b) The number of buildings in this State which the person submitting the proposal owns or leases and substantially occupies as a principal place of business of the person submitting the proposal;

(c) The number of persons in this State that the person submitting the proposal employs or engages as independent contractors for the conduct of the business of the person submitting the proposal; and

(d) The amount of goods or commodities for use in the proposal which are produced or manufactured in this State or supplied by a dealer who is located in this State.

5. The chief of the using agency, the Administrator of the Purchasing Division or the committee, if a committee is established, shall determine the relative weight of each factor set forth in subsection 3 before a request for proposals is advertised. ~~The relative weight of the factor described in paragraph (d) of subsection 3 must be equal to or greater than the given a relative weight that is greater than the relative weight of any other single~~ at least one other factor. The weight of each factor must not be disclosed before the date proposals are required to be submitted.

~~{5.}~~ 6. Except as otherwise provided in this subsection, the chief of the using agency, the Administrator of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned pursuant to subsection 3, and is not required to accept the lowest-priced proposal. If the contract is being awarded for the Public Employees' Benefits Program, the Administrator of the Purchasing Division or the committee, if a committee is established, shall submit recommendations for awarding the contract to the Board for the Public Employees' Benefits Program, which shall award the contract in accordance with NRS 287.04345.

~~{6.}~~ 7. Except as otherwise provided in NRS 239.0115, each proposal evaluated pursuant to the provisions of this section is confidential and may not be disclosed until the contract is awarded.

Sec. 2. ~~[NRS 333.340 is hereby amended to read as follows:~~

~~333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Administrator:~~

~~(a) Shall consider, if applicable:~~

~~(1) The granting of the preference described in NRS 333.3366.~~

~~(2) The required standards adopted pursuant to NRS 333.4611.~~

~~(3) The connection between the bidder and this State.~~

~~(b) May consider:~~

- ~~— (1) The location of the using agency to be supplied.~~
- ~~— (2) The qualities of the articles to be supplied.~~
- ~~— (3) The total cost of ownership of the articles to be supplied.~~
- ~~— (4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.~~
- ~~— (5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:~~
 - ~~— (I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;~~
 - ~~— (II) The purchase of the alternative article results in a lower price; and~~
 - ~~— (III) The Administrator deems the purchase of the alternative article to be in the best interests of the State of Nevada.~~
- ~~— (6) The purposes for which the articles to be supplied are required.~~
- ~~— (7) The dates of delivery of the articles to be supplied.~~

~~2. To evaluate the connection between the bidder and this State pursuant to subparagraph (3) of paragraph (a) of subsection 1, the Administrator shall consider criteria which include, without limitation:~~

- ~~— (a) The amount of taxes paid to the State of Nevada or its political subdivisions by the bidder during the immediately preceding 5 years, including, without limitation, the amounts paid in property taxes, sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS, governmental services taxes imposed pursuant to chapter 371 of NRS and excise taxes imposed upon an employer pursuant to NRS 363B.110;~~
- ~~— (b) The number of buildings in this State which the bidder owns or leases and substantially occupies as a principal place of business of the bidder;~~
- ~~— (c) The number of persons in this State that the bidder employs or engages as independent contractors for the conduct of the business of the bidder; and~~
- ~~— (d) The amount of goods or commodities for use in the proposal which are produced or manufactured in this State or supplied by a dealer who is located in this State.~~

~~3. If a contract or an order is not awarded to the lowest bidder, the Administrator shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him or her.~~

~~[3.] 4. As used in this section, "total cost of ownership" includes, but is not limited to:~~

- ~~— (a) The history of maintenance or repair of the articles;~~
- ~~— (b) The cost of routine maintenance and repair of the articles;~~
- ~~— (c) Any warranties provided in connection with the articles;~~
- ~~— (d) The cost of replacement parts for the articles; and~~
- ~~— (e) The value of the articles as used articles when given in trade on a subsequent purchase.] (Deleted by amendment.)~~

Sec. 3. 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.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Amendment No. 383 to Senate Bill No. 325 gives the factor that measures the connection between the person submitting the proposal and the State a relative weight that is greater than the relative weight given to at least one other factor; and deletes section 2 of the bill relevant to a contract or order for goods.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 348.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 286.

SUMMARY—Revises provisions governing unclaimed property.
(BDR 10-770)

AN ACT relating to unclaimed property; exempting certain property due or owing from a business association to another business association from provisions governing the disposition of unclaimed property under certain circumstances; exempting public infrastructure proceeds from provisions governing the disposition of unclaimed property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the powers, duties and liabilities of the State and other persons concerning certain property which is abandoned and unclaimed by its owner. (Chapter 120A of NRS) Under existing law, property that is unclaimed by the apparent owner of the property for a certain period is presumed to be abandoned. (NRS 120A.500, 120A.510, 120A.520) A holder of property that is presumed to be abandoned must make a report concerning the property to the State Treasurer, acting as the Administrator of Unclaimed Property, and pay or deliver the property to the Administrator. (NRS 120A.560, 120A.570) The Administrator must deposit any money received as abandoned property and the proceeds of any sale of abandoned property in the Abandoned Property Trust Account. (NRS 120A.620) A person who claims property paid or delivered to the Administrator may file a claim for the property, and, if the Administrator approves the claim, the Administrator must deliver the property to the claimant or, if the property is money or the net proceeds of a sale of abandoned property, pay the claim from the Account. (NRS 120A.620, 120A.640) At the end of each fiscal year, the first \$7.6 million of the balance remaining in the Account is transferred to the Millennium Scholarship Trust Fund, and the remaining balance is

transferred to the State General Fund, subject to any valid claims. (NRS 120A.620)

Section 1 of this bill provides that certain amounts due or owing from a holder that is a business association to another business association must not be presumed abandoned if the holder and the other business association have an ongoing business relationship. Because these amounts must not be presumed abandoned, the provisions of existing law governing unclaimed property would not apply to those amounts. Under section 2 of this bill, the provisions of section 1 apply to the amounts due or owing from a business association to another business association that, on or after July 1, 2015, are in the possession, custody or control of a business association.

~~[This]~~ Section 1.5 of this bill provides that certain amounts paid to this State or a local government as a deposit or fee to provide security for, or to fund the construction of, public infrastructure are exempt from the provisions of existing law governing unclaimed property. Under section 2, ~~of this bill,~~ this exemption applies only to such deposits or fees that, on or after July 1, 2015, are in the possession, control or custody of this State or a local government.

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

Section 1. Chapter 120A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this subsection, any credit memoranda, overpayments, credit balances, deposits, unidentified remittances, nonrefunded overcharges, discounts, refunds and rebates due or owing from a holder that is a business association to another business association shall not be presumed abandoned if the holder and such business association have an ongoing business relationship. The provisions of this subsection do not apply to outstanding checks, drafts or other similar instruments.

2. For the purposes of subsection 1, an ongoing business relationship shall be deemed to exist if the holder has engaged in at least one commercial, business or professional transaction involving the sale, lease, license or purchase of goods or services with the business association or a predecessor-in-interest of the business association within each 3-year period that follows the date of the transaction giving rise to the property interest that shall not be presumed abandoned pursuant to subsection 1.

~~[Section 1.]~~ Sec. 1.5. NRS 120A.135 is hereby amended to read as follows:

120A.135 1. The provisions of this chapter do not apply to ~~[gaming]~~ :

- (a) Gaming chips or tokens which are not redeemed at an establishment.
- (b) Public infrastructure proceeds.

2. As used in this section:

- (a) "Establishment" has the meaning ascribed to it in NRS 463.0148.

(b) "Gaming chip or token" means any object which may be redeemed at an establishment for cash or any other representative of value other than a slot machine wagering voucher as defined in NRS 463.369.

(c) *"Public infrastructure" means facilities and the structure or network used for the delivery of goods, services and public safety, including, without limitation, communications facilities, facilities for the transmission of electricity and natural gas, water systems, sanitary sewer systems, storm sewer systems, streets and roads, traffic control systems, sidewalks, parks and trails, recreational facilities, fire, police and flood protection and all related appurtenances.*

(d) *"Public infrastructure proceeds" means amounts held by this State or an agency or political subdivision of this State that were paid to the State or the agency or political subdivision for the purpose of providing security for, or to fund the construction of, public infrastructure.*

Sec. 2. 1. The amendatory provisions of section 1 of this act apply to all amounts due or owing from a business association to another business association that, on or after July 1, 2015, are in the possession, custody or control of a business association.

2. The amendatory provisions of section 1.5 of this act apply only to public infrastructure proceeds that, on or after July 1, 2015, are in the possession, custody or control of this State or an agency or political subdivision of this State.

~~{2.}~~ 3. As used in this section ~~["public"]~~ :

(a) "Business association" has the meaning ascribed to it in NRS 120A.040.

(b) "Public infrastructure proceeds" has the meaning ascribed to it in NRS 120A.135, as amended by section ~~{1.5}~~ 1.5 of this act.

Sec. 3. This act becomes effective on July 1, 2015.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 348 enacts an exception to the Uniform Unclaimed Property Act for "business-to-business" transfers, which are limited to credit memoranda, overpayments, credit balances, deposits, unidentified remittances, non-refunded overcharges, discounts, refunds and rebates due or owing from one business association to another.

The amendment also provides that the businesses in question must have had an ongoing business relationship within the last three years.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Roberson moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 12:27 p.m.

SENATE IN SESSION

At 12:58 p.m.

President Hutchison presiding.

Quorum present.

Senate Bill No. 349.

Bill read second time and ordered to third reading.

Senate Bill No. 381.

Bill read second time and ordered to third reading.

Senate Bill No. 409.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 285.

SUMMARY—Revises provisions relating to gaming. (BDR 41-1041)

AN ACT relating to gaming; revising provisions related to the preparation of a credit report in connection with a person who is seeking certain employment with a gaming licensee; revising provisions governing the disclosure of certain information by a reporting agency; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing state and federal law prohibits a credit reporting agency from disclosing in the credit report of a person information related to a bankruptcy filing that is more than 10 years old and certain other negative credit information that is more than 7 years old. (NRS 598C.150; 15 U.S.C. § 1681c) However, existing federal law provides certain exceptions to the preceding federal prohibition, including an exception for a credit report prepared in connection with the employment of an individual whose salary will be greater than \$75,000. (15 U.S.C. § 1681c(b)(3))

Sections 1 and 2 of this bill create a similar exception in state law for a credit report prepared for a gaming licensee in connection with a person who is seeking employment with the licensee or employment in a position connected directly with the licensee's operations. Section 2 also removes the prohibition against disclosing a record of conviction of a crime which is more than 7 years old, meaning that there is no limitation of time for which such a record may be disclosed.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Notwithstanding the provisions of NRS 598C.150, and to the extent allowed by 15 U.S.C. § 1681c, as amended, or any successor provision, and any regulations adopted pursuant thereto, a reporting agency may conduct an investigation or report information in response to a request from a*

licensee pursuant to the licensee's internal investigation of a person seeking employment with the licensee or employment in a position connected directly with the operations of the licensee.

2. *As used in this section, "reporting agency" has the meaning ascribed to it in NRS 598C.100.*

Sec. 2. NRS 598C.150 is hereby amended to read as follows:

598C.150 A reporting agency shall periodically purge from its files and after purging shall not disclose:

1. ~~[Bankruptcies]~~ *Except as otherwise provided in section 1 of this act, bankruptcies* whose dates of adjudication precede the report by more than 10 years. A report of adjudication must include, if known, the chapter of Title 11 of the United States Code under which the case arose.

2. Except as otherwise provided by a specific statute, *including, without limitation, section 1 of this act*, any other civil judgment, a report of criminal proceedings, or other adverse information, *excluding a record of a conviction of a crime*, which precedes the report by more than 7 years.

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

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 409 revises the bill to clarify that a credit reporting agency is not required to purge criminal convictions from its records.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 412.

Bill read second time and ordered to third reading.

Senate Bill No. 414.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 300.

SUMMARY—Encourages the Board of Regents of the University of Nevada to enter into a reciprocal agreement with the State of California to ~~[provide full]~~ authorize waivers of nonresident tuition to certain residents of the Lake Tahoe Basin. (BDR S-993)

AN ACT relating to education; encouraging the Board of Regents of the University of Nevada to enter into a reciprocal agreement with the State of California ~~[that grants full]~~ to authorize waivers of nonresident tuition to certain residents of the Lake Tahoe Basin; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to enter into a reciprocal agreement with another state for the granting of full or partial waivers of nonresident tuition to residents of the other state who are students at or are eligible for admission to any branch of the Nevada System

of Higher Education if the other state grants reciprocal waivers to residents of Nevada. (NRS 396.543) This bill encourages the Board of Regents to enter into such an agreement with the State of California ~~[so that: (1) residents of communities located in the Nevada portion of the Lake Tahoe Basin receive a full waiver of nonresident tuition to attend Lake Tahoe Community College in South Lake Tahoe, California; and (2) residents of communities located in the California portion of the Lake Tahoe Basin receive a full waiver]~~ to authorize waivers of nonresident tuition to [attend Western Nevada College in Carson City, Nevada.] certain residents of Nevada and California in the Lake Tahoe Basin.

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

Section 1. The Legislature hereby finds and declares:

1. Lake Tahoe Community College in South Lake Tahoe, California, is in a unique location where residents of certain communities located in the Nevada portion of the Lake Tahoe Basin reside in closer proximity to the Community College than to any branch of the Nevada System of Higher Education.

2. Western Nevada College in Carson City, Nevada, is in a unique location where residents of certain communities located in the California portion of the Lake Tahoe Basin reside in closer proximity to the College than to a school in the system of California Community Colleges.

3. The Board of Regents of the University of Nevada has authority pursuant to NRS 396.543 to enter into a reciprocal agreement with the State of California to grant waivers of nonresident tuition for:

(a) Residents of communities located in the Nevada portion of the Lake Tahoe Basin to attend Lake Tahoe Community College; and

(b) Residents of communities located in the California portion of the Lake Tahoe Basin to attend Western Nevada College.

4. Such a reciprocal agreement would provide economic and educational benefits to citizens of this State.

5. The Legislature of the State of California is considering the passage of Senate Bill No. 605 of the 2015-2016 Regular Session, which authorizes waivers of nonresident tuition to residents of certain communities located in the Nevada portion of the Lake Tahoe Basin if the Nevada Legislature enacts legislation authorizing reciprocal waivers of nonresident tuition to certain residents of the California portion of the Lake Tahoe Basin.

Sec. 2. The Nevada Legislature hereby encourages the Board of Regents of the University of Nevada to enter into a reciprocal agreement with the State of California ~~[to grant full waivers of nonresident tuition to:~~

~~1. Residents of communities located in the Nevada portion of the Lake Tahoe Basin to attend Lake Tahoe Community College in South Lake Tahoe, California; and~~

~~2. Residents of communities located in the California portion of the Lake Tahoe Basin to attend Western Nevada College in Carson City, Nevada.] to~~

authorize waivers of nonresident tuition to residents of Nevada and California in the Lake Tahoe Basin that reasonably conforms to the provisions of Senate Bill No. 605 of the 2015-2016 Regular Session of the Legislature of the State of California.

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

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment strikes the tuition waiver provision and adds a provision suggesting the agreement conform with the reciprocal portions of Senate Bill 605 of the 2015-16 Regular Session of the California Legislature.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 417.

Bill read second time.

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

Amendment No. 338.

SUMMARY—Prohibits the use of telemetry data to ~~hunt or kill~~ harass or take game mammals, ~~for~~ game birds, ~~or~~ or other wildlife. (BDR 45-549)

AN ACT relating to wildlife; prohibiting the use of telemetry data to ~~hunt or kill~~ harass or take game mammals, ~~for~~ game birds, ~~or~~ or other wildlife; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits certain activities relating to the taking of game mammals and game birds. (NRS 503.010, 503.150) Existing law also provides that a violation of the provisions which govern wildlife is a misdemeanor. (NRS 501.385) This bill prohibits the use of any information obtained from a radio signal or other transmission received from any transmitting device that is attached to or placed for the purpose of detecting a game mammal, ~~for~~ game bird or other wildlife to ~~hunt~~ harass or take any game mammal, ~~for~~ game bird, ~~or~~ or other wildlife. This bill also prohibits the use of any device meant to receive the signals from any such transmitting device to harass or take any game mammal, game bird or other wildlife or for any other purpose without the written authorization of the Department of Wildlife. Further, this bill prohibits the use of any location information obtained from records maintained by the Department within 1 year after the date on which the information was collected to harass or take any game mammal, game bird or other wildlife.

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

Section 1. NRS 503.010 is hereby amended to read as follows:

503.010 1. Except as otherwise provided in this section or subsection 2 of NRS 503.005, it is unlawful to ~~molest, rally, stir up or drive~~ harass any

game mammals or game birds with an aircraft, helicopter or motor-driven vehicle, including a motorboat or sailboat.

2. Except as otherwise provided in this subsection, it is unlawful to shoot at any game mammals or game birds with a weapon from an aircraft, helicopter or motor-driven vehicle. A person who is a paraplegic, has had one or both legs amputated or has suffered a paralysis of one or both legs which severely impedes the person's walking may shoot from a stopped motor vehicle which is not parked on the traveled portion of a public highway, but the person may not shoot from, over or across a highway or road specified in NRS 503.175.

3. It is unlawful to spot or locate game mammals or game birds with any kind of aircraft or helicopter and communicate that information, within 24 hours after the aircraft or helicopter has landed or in violation of a regulation of the Commission, by any means to a person on the ground for the purpose of hunting or trapping. The provisions of this subsection do not prohibit an employee or agent of the Department from providing general information to the public concerning the location of game birds or game mammals.

4. It is unlawful to use any information obtained in violation of the provisions of subsection 3 to hunt or kill game mammals or game birds.

5. It is unlawful to use a helicopter to transport game, hunters or hunting equipment, except when the cargo or passengers, or both, are loaded and unloaded at airports, airplane landing fields or heliports, which have been established by a department or agency of the Federal or State Government or by a county or municipal government or when the loading or unloading is done in the course of an emergency or search and rescue operation.

6. ~~It is unlawful to use:~~

(a) Use any information obtained from a radio signal or other transmission received from any transmitting device; ~~that is attached to a game mammal or game bird to hunt or kill any game mammal or game bird.~~

(b) Make use of equipment designed to receive a radio signal or other transmission from a transmitting device; or

(c) Use any location information obtained from records maintained by the Department within 1 year after the date on which the information was collected, including, without limitation, records of information received from a transmitting device,

to harass or take any game mammal, game bird or other wildlife.

7. It is unlawful to make use of equipment designed to receive a radio signal or other transmission from a transmitting device for any purpose without written authorization of the Department.

8. The provisions of subsection 1 do not apply to an employee or agent of the Department who, while carrying out his or her duties, conducts a survey of wildlife with the use of an aircraft.

~~{7-8-}~~ 9. As used in this section ~~["game"]~~:

(a) "Aircraft" includes, without limitation, any device that is used for navigation of, or flight in, the air.

(b) "Game bird" does not include a raven, even if classified as a game bird pursuant to NRS 501.110.

~~*(b)*~~ *(c) "Harass" means to molest, chase, rally, concentrate, herd, intercept, torment or drive.*

(d) "Transmitting device" means any collar or other device which is attached to any game mammal, ~~for~~ game bird or other wildlife or which is placed for the express purpose of detecting any game mammal, game bird or other wildlife and emits an electronic signal or uses radio telemetry or a satellite transmission to determine the location of the game mammal, ~~for~~ game bird ~~or~~ or other wildlife.

Sec. 2. This act becomes effective on July 1, 2015.

Senator Gustavson moved the adoption of the amendment.

Remarks by Senator Gustavson.

Amendment No. 338 to Senate Bill No. 417 prohibits the use of information obtained from a radio signal or transmitting device to harass or take any game animal or wildlife, or for any other purpose, without written authorization from the Department of Wildlife.

The amendment also prohibits the use of any location information obtained from Department records within one year from collection to harass or take any game animal or wildlife.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 453.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 284.

SUMMARY—Revises provisions relating to real property. (BDR 3-1085)

AN ACT relating to real property; revising provisions relating to the "one action rule" for recovery of a debt secured by a mortgage or lien on real property; revising provisions governing certain actions to enforce an obligation or debt secured by a mortgage or deed of trust; revising provisions governing the election to participate in mediation in a judicial foreclosure action; revising provisions governing deficiency judgments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law contains various provisions governing the enforcement of loans secured by deeds of trust or mortgages on real property, including, without limitation, provisions governing actions for the foreclosure of mortgages or deeds of trust, the conduct of foreclosure sales and the award of deficiency judgments, actions by holders of junior mortgages after foreclosure sales, the maintenance of property acquired at a foreclosure sale and the guarantors and sureties. (NRS 40.430-40.495) This bill revises these provisions of existing law.

Sections 2-5 and 16 of this bill transfer the definitions of various terms to new sections and apply these definitions to all provisions of existing law

governing the enforcement of loans secured by deeds of trust or mortgages on real property. Sections 8-15 of this bill make conforming changes so that the defined terms appear in the appropriate provisions of existing law.

Existing law contains the "one action rule," which generally provides there may be only one action for the recovery of a debt, or the enforcement of a right, secured by a mortgage or other lien on real property, and that the action must be for the foreclosure of the real property securing the debt or obligation. (NRS 40.430) Section 5.5 of this bill specifically provides that this rule is not applicable to an action for declaratory relief to ascertain the identity of the person who is entitled to enforce an instrument evidencing a debt or obligation secured by a mortgage or other lien on real property.

Existing law provides that in a judicial foreclosure action concerning owner-occupied property, the mortgagor may elect to participate in the Foreclosure Mediation Program. (NRS 40.437) Section 6 of this bill incorporates in this provision the statutory changes made to the Foreclosure Mediation Program during the 2013 Legislative Session, and clarifies that a mortgagor, a grantor of a deed of trust or the person who holds title of record may enroll in the Program when a judicial foreclosure action is filed against him or her.

Section 7 of this bill revises the language of the provision of existing law governing the disposition of surplus money after a foreclosure sale to clarify the language and use terms that are defined in existing law.

Under existing law, to obtain a deficiency judgment after a foreclosure sale, a creditor must file an application with the court within 6 months after the date of the foreclosure sale. (NRS 40.455) Existing law further provides that in certain circumstances a creditor may bring an action against a guarantor, surety or other obligor who is not the borrower to enforce the obligation to pay, satisfy or purchase all or part of the obligation secured by a mortgage or lien on real property. (NRS 40.495) Section 8 provides that the complaint or other pleading in this action constitutes the application for a deficiency judgment and, thus, the creditor is not required to file an application for a deficiency judgment after the foreclosure sale.

Existing law contains two sections which require a person who purchases or acquires vacant residential property at a foreclosure sale to maintain the property in accordance with certain standards. (NRS 40.464, 107.110) Sections 12 and 16 combine these provisions into one section.

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 5, inclusive, of this act.

Sec. 2. *As used in NRS 40.430 to 40.495, inclusive, and sections 3, 4 and 5 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. *"Foreclosure sale" means the sale of real property to enforce an obligation secured by a mortgage or lien on the property, including the exercise of a trustee's power of sale pursuant to NRS 107.080.*

Sec. 4. *"Mortgage or other lien" includes a deed of trust, but does not include a lien which arises pursuant to chapter 108 of NRS, pursuant to an assessment under chapter 116, 116B, 117, 119A or 278A of NRS or pursuant to a judgment or decree of any court of competent jurisdiction.*

Sec. 5. *"Sale in lieu of a foreclosure sale" means a sale of real property pursuant to an agreement between a person to whom an obligation secured by a mortgage or other lien on real property is owed and the debtor of that obligation in which the sales price of the real property is insufficient to pay the full outstanding balance of the obligation and the costs of the sale. The term includes, without limitation, a deed in lieu of a foreclosure sale.*

Sec. 5.5. NRS 40.430 is hereby amended to read as follows:

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512, and except as otherwise provided in NRS 118C.220, there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive, ~~1~~, and sections 3, 4 and 5 of this act. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

5. Within 30 days after a sale of property is conducted pursuant to this section, the sheriff who conducted the sale shall record the sale of the property in the office of the county recorder of the county in which the property is located.

6. As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state ~~or~~ including, without limitation, an action for declaratory relief pursuant to chapter 30 of NRS to ascertain the identity of the person who is entitled to enforce an instrument pursuant to NRS 104.3309.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Pursuant to an agreement entered into pursuant to NRS 361.7311 between an owner of the property and the assignee of a tax lien against the property, or an action which is authorized by NRS 361.733.

(p) Which is exempted from the provisions of this section by specific statute.

(q) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

Sec. 6. NRS 40.437 is hereby amended to read as follows:

40.437 1. If ~~a civil~~ *an* action ~~for a foreclosure sale~~ pursuant to NRS 40.430 affecting owner-occupied housing is commenced in a court of competent jurisdiction:

(a) The copy of the complaint served on the mortgagor must include a separate document containing:

(1) Contact information which the mortgagor may use to reach a person with authority to negotiate a loan modification on behalf of the plaintiff;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(3) A notice provided by the Mediation Administrator indicating that the mortgagor ~~has the right~~ *will be enrolled to seek* participate in mediation pursuant to this section ~~if he or she pays to the Mediation Administrator his or her share of the fee established pursuant to subsection 11 of NRS 107.086~~; and

(4) A form upon which the mortgagor may indicate an election to enter into mediation or to waive mediation pursuant to this section and one envelope addressed to the plaintiff and one envelope addressed to the Mediation Administrator, which the mortgagor may use to comply with the provisions of subsection 2; and

(b) The plaintiff must submit a copy of the complaint to the Mediation Administrator.

2. ~~The~~ *If the mortgagor elects to waive mediation, he or she shall, not later than the date on which an answer to the complaint is due, complete the form required by subparagraph (4) of paragraph (a) of subsection 1 and file the form with the court and return a copy of the form to the plaintiff by certified mail, return receipt requested. If the mortgagor indicates on the form an election* ~~does not elect to enter into~~ *waive mediation, he or she shall, not later than the date on which an answer to the complaint is due, pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 11 of NRS 107.086. Upon receipt of the share of the fee established pursuant to subsection 11 of NRS 107.086 owed by the mortgagor, the Mediation Administrator shall notify the plaintiff, by certified mail, return receipt requested, of the enrollment of the mortgagor to participate in mediation pursuant to this section and shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. Upon the plaintiff's receipt of such notice, the plaintiff shall notify any person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the mortgagor to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing master or other*

~~designee and schedule the matter for~~ participate in mediation. The judicial foreclosure action must be stayed until the completion of the mediation. If the mortgagor indicates on the form ~~and~~ required by subparagraph (4) of paragraph (a) of subsection 1 of his or her election to waive mediation or fails to ~~file the form with the court and return a copy of the form to the plaintiff~~ pay the Mediation Administrator his or her share of the fee established pursuant to subsection 11 of NRS 107.086, as required by this subsection, no mediation is required in the action ~~and~~ and the action pursuant to NRS 40.430 must proceed.

3. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 11 of NRS 107.086. The plaintiff or a representative, and the mortgagor or his or her representative, shall attend the mediation. If the plaintiff is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the plaintiff or have access at all times during the mediation to a person with such authority.

4. If the plaintiff or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not have the authority or access to a person with the authority required by subsection 3, the mediator shall prepare and submit to the Mediation Administrator and the court a petition and recommendation concerning the imposition of sanctions against the plaintiff or the representative. The court may issue an order imposing such sanctions against the plaintiff or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

5. If the mortgagor ~~elects~~ is enrolled to ~~enter into~~ participate in mediation ~~and~~ pursuant to this section but fails to attend the mediation, no mediation is required and the judicial foreclosure action must proceed as if the mortgagor had ~~not~~ elected to ~~enter into~~ waive mediation.

6. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the court and the Mediation Administrator a recommendation that the mediation be terminated. The court may terminate the mediation and proceed with the judicial foreclosure action.

7. The rules adopted by the Supreme Court pursuant to subsection 11 of NRS 107.086 apply to a mediation conducted pursuant to this section, and the Supreme Court may adopt any additional rules necessary to carry out the provisions of this section.

8. Except as otherwise provided in subsection 10, the provisions of this section do not apply if:

(a) The mortgagor has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the defendant under 11 U.S.C. Chapter 7, 11, 12 or 13 and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

9. A noncommercial lender is not excluded from the application of this section.

10. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

11. As used in this section:

(a) "Mediation Administrator" has the meaning ascribed to it in NRS 107.086.

(b) "*Mortgagor*" includes the grantor of a deed of trust or the person who holds the title of record to the real property.

(c) "Noncommercial lender" has the meaning ascribed to it in NRS 107.086.

~~{(e)}~~ (d) "Owner-occupied housing" has the meaning ascribed to it in NRS 107.086.

Sec. 7. NRS 40.440 is hereby amended to read as follows:

40.440 ~~{If there is surplus money remaining after payment of the amount due on the mortgage or other lien, with costs,}~~ *Following a foreclosure sale, the court may cause the {same} proceeds of the foreclosure sale to be paid to the {person} persons entitled to it pursuant to NRS 40.462, and in the meantime may direct it to be deposited in court.*

Sec. 8. NRS 40.455 is hereby amended to read as follows:

40.455 1. Except as otherwise provided in subsection 3, upon application of the judgment creditor or the beneficiary of the deed of trust within 6 months after the date of the foreclosure sale ~~{for the trustee's sale held pursuant to NRS 107.080, respectively,}~~ and after the required hearing, the court shall award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if it appears from the sheriff's return or the recital of consideration in the trustee's deed that there is a deficiency of the proceeds of the sale and a balance remaining due to the judgment creditor or the beneficiary of the deed of trust, respectively.

2. If the indebtedness is secured by more than one parcel of real property, more than one interest in the real property or more than one mortgage or deed of trust, the 6-month period begins to run after the date of the foreclosure sale ~~{for trustee's sale}~~ of the last parcel or other interest in the real property securing the indebtedness, but in no event may the application be filed more than 2 years after the initial foreclosure sale. ~~{for trustee's sale.}~~

3. If the judgment creditor or the beneficiary of the deed of trust is a financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust, even if there is a deficiency of the proceeds of the sale and a balance remaining due the judgment creditor or beneficiary of the deed of trust, if:

(a) The real property is a single-family dwelling and the debtor or grantor was the owner of the real property at the time of the foreclosure sale ; ~~for trustee's sale;~~

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust; and

(d) The debtor or grantor did not refinance the mortgage or deed of trust after securing it.

4. *For purposes of an action against a guarantor, surety or other obligor of an indebtedness or obligation secured by a mortgage or lien upon real property pursuant to NRS 40.495, the term "application" includes, without limitation, a complaint or other pleading to collect the indebtedness or obligation which is filed before the date and time of the foreclosure sale unless a judgment has been entered in such action as provided in paragraph (b) of subsection 4 of NRS 40.495.*

5. As used in this section, "financial institution" has the meaning ascribed to it in NRS 363A.050.

Sec. 9. NRS 40.457 is hereby amended to read as follows:

40.457 1. Before awarding a deficiency judgment under NRS 40.455, the court shall hold a hearing and shall take evidence presented by either party concerning the fair market value of the property sold as of the date of foreclosure sale . ~~for trustee's sale.~~ Notice of such hearing shall be served upon all defendants who have appeared in the action and against whom a deficiency judgment is sought, or upon their attorneys of record, at least 15 days before the date set for hearing.

2. Upon application of any party made at least 10 days before the date set for the hearing the court shall, or upon its own motion the court may, appoint an appraiser to appraise the property sold as of the date of foreclosure sale. ~~for trustee's sale.~~ Such appraiser shall file with the clerk the appraisal, which is admissible in evidence. The appraiser shall take an oath that the appraiser has truly, honestly and impartially appraised the property to the best of the appraiser's knowledge and ability. Any appraiser so appointed may be called and examined as a witness by any party or by the court. The court shall fix a reasonable compensation for the appraiser, but the appraiser's fee shall not exceed similar fees for similar services in the county where the encumbered land is situated.

Sec. 10. NRS 40.458 is hereby amended to read as follows:

40.458 1. If the judgment creditor or the beneficiary of the deed of trust who applies for a deficiency judgment is a banking or other financial institution, the court may not award a deficiency judgment to the judgment creditor or the beneficiary of the deed of trust if:

(a) The real property is a single-family dwelling and the debtor or the grantor of the deed of trust was the owner of the real property at the time of the sale in lieu of a foreclosure sale;

(b) The debtor or grantor used the amount for which the real property was secured by the mortgage or deed of trust to purchase the real property;

(c) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the mortgage or deed of trust;

(d) The debtor or grantor and the banking or other financial institution entered into an agreement to sell the real property secured by the mortgage or deed of trust to a third party for an amount less than the indebtedness secured thereby; and

(e) The agreement entered into pursuant to paragraph (d):

(1) Does not state the amount of money still owed to the banking or other financial institution by the debtor or grantor or does not authorize the banking or other financial institution to recover that amount from the debtor or grantor; and

(2) Contains a conspicuous statement that has been acknowledged by the signature of the banking or other financial institution and the debtor or grantor which provides that the banking or other financial institution has waived its right to recover the amount owed by the debtor or grantor and which sets forth the amount of recovery that is being waived.

2. As used in this section ~~[-~~

~~—(a) "Banking", "banking or other financial institution" means any bank, savings and loan association, savings bank, thrift company, credit union or other financial institution that is licensed, registered or otherwise authorized to do business in this State.~~

~~[(b) "Sale in lieu of a foreclosure sale" means a sale of real property pursuant to an agreement between a person to whom an obligation secured by a mortgage or other lien on real property is owed and the debtor of that obligation in which the sales price of the real property is insufficient to pay the full outstanding balance of the obligation and the costs of the sale. The term includes, without limitation, a deed in lieu of foreclosure.]~~

Sec. 11. NRS 40.462 is hereby amended to read as follows:

40.462 1. Except as otherwise provided by specific statute, this section governs the distribution of the proceeds of a foreclosure sale. The provisions of NRS 40.455, 40.457 and 40.459 do not affect the right to receive those proceeds, which vests at the time of the foreclosure sale. The purchase of any interest in the property at the foreclosure sale, and the subsequent disposition of the property, does not affect the right of the purchaser to the distribution of proceeds pursuant to paragraph (c) of subsection 2, or to obtain a deficiency judgment pursuant to NRS 40.455, 40.457 and 40.459.

2. The proceeds of a foreclosure sale must be distributed in the following order of priority:

(a) Payment of the reasonable expenses of taking possession, maintaining, protecting and leasing the property, the costs and fees of the foreclosure sale, including reasonable trustee's fees, applicable taxes and the cost of title insurance and, to the extent provided in the legally enforceable terms of the mortgage or lien, any advances, reasonable attorney's fees and other legal expenses incurred by the foreclosing creditor and the person conducting the foreclosure sale.

(b) Satisfaction of the obligation being enforced by the foreclosure sale.

(c) Satisfaction of obligations secured by any junior mortgages or liens on the property, in their order of priority.

(d) Payment of the balance of the proceeds, if any, to the debtor or the debtor's successor in interest.

↪ If there are conflicting claims to any portion of the proceeds, the person conducting the foreclosure sale is not required to distribute that portion of the proceeds until the validity of the conflicting claims is determined through interpleader or otherwise to the person's satisfaction.

3. A person who claims a right to receive the proceeds of a foreclosure sale pursuant to paragraph (c) of subsection 2 must, upon the written demand of the person conducting the foreclosure sale, provide:

(a) Proof of the obligation upon which the claimant claims a right to the proceeds; and

(b) Proof of the claimant's interest in the mortgage or lien, unless that proof appears in the official records of a county in which the property is located.

↪ Such a demand is effective upon personal delivery or upon mailing by registered or certified mail, return receipt requested, to the last known address of the claimant. Failure of a claimant to provide the required proof within 15 days after the effective date of the demand waives the claimant's right to receive those proceeds.

~~{4. As used in this section, "foreclosure sale" means the sale of real property to enforce an obligation secured by a mortgage or lien on the property, including the exercise of a trustee's power of sale pursuant to NRS 107.080.}~~

Sec. 12. NRS 40.464 is hereby amended to read as follows:

40.464 1. Any vacant residential property purchased or acquired by a person at a foreclosure sale ~~{pursuant to NRS 40.430}~~ must be maintained by that person in accordance with subsection 2.

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by certified mail, a notice:

- (a) Describing the violation;
- (b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and
- (c) Informing the person that the person may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to the person pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than \$1,000 per day for a violation of subsection 2:

- (a) Commencing on the day following the expiration of the period of time described in subsection 3; or
- (b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

- (a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and
- (b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. If the applicable governmental entity assesses any penalty pursuant to this section, any lien related thereto must be recorded in the office of the county recorder.

10. As used in this section, "applicable governmental entity" means:

- (a) If the property is within the boundaries of a city, the governing body of the city; and
- (b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located.

Sec. 13. NRS 40.495 is hereby amended to read as follows:

40.495 1. The provisions of NRS 40.475 and 40.485 may be waived by the guarantor, surety or other obligor only after default.

2. Except as otherwise provided in subsection 5, a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, may

waive the provisions of NRS 40.430. If a guarantor, surety or other obligor waives the provisions of NRS 40.430, an action for the enforcement of that person's obligation to pay, satisfy or purchase all or part of an indebtedness or obligation secured by a mortgage or lien upon real property may be maintained separately and independently from:

- (a) An action on the debt;
- (b) The exercise of any power of sale;
- (c) Any action to foreclose or otherwise enforce a mortgage or lien and the indebtedness or obligations secured thereby; and
- (d) Any other proceeding against a mortgagor or grantor of a deed of trust.

3. If the obligee maintains an action to foreclose or otherwise enforce a mortgage or lien and the indebtedness or obligations secured thereby, the guarantor, surety or other obligor may assert any legal or equitable defenses provided pursuant to the provisions of NRS 40.451 to 40.4639, inclusive.

4. If, before a foreclosure sale of real property, the obligee commences an action against a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, to enforce an obligation to pay, satisfy or purchase all or part of an indebtedness or obligation secured by a mortgage or lien upon the real property:

(a) The court must hold a hearing and take evidence presented by either party concerning the fair market value of the property as of the date of the commencement of the action. Notice of such hearing must be served upon all defendants who have appeared in the action and against whom a judgment is sought, or upon their attorneys of record, at least 15 days before the date set for the hearing.

(b) After the hearing, if the court awards a money judgment against the guarantor, surety or other obligor who is personally liable for the debt, the court must not render judgment for more than:

(1) The amount by which the amount of the indebtedness exceeds the fair market value of the property as of the date of the commencement of the action; or

(2) If a foreclosure sale is concluded before a judgment is entered, the amount that is the difference between the amount for which the property was actually sold and the amount of the indebtedness which was secured,

➡ whichever is the lesser amount.

5. The provisions of NRS 40.430 may not be waived by a guarantor, surety or other obligor if the mortgage or lien:

(a) Secures an indebtedness for which the principal balance of the obligation was never greater than \$500,000;

(b) Secures an indebtedness to a seller of real property for which the obligation was originally extended to the seller for any portion of the purchase price;

(c) Is secured by real property which is used primarily for the production of farm products as of the date the mortgage or lien upon the real property is created; or

(d) Is secured by real property upon which:

- (1) The owner maintains the owner's principal residence;
- (2) There is not more than one residential structure; and
- (3) Not more than four families reside.

~~[6. As used in this section, "foreclosure sale" has the meaning ascribed to it in NRS 40.462.]~~

Sec. 14. NRS 107.140 is hereby amended to read as follows:

107.140 1. No provision of the laws of this State may be construed to require a sale in lieu of a foreclosure sale to be an arm's length transaction or to prohibit a sale in lieu of a foreclosure sale that is not an arm's length transaction.

2. As used in this section, "sale in lieu of a foreclosure sale" has the meaning ascribed to it in ~~[NRS 40.4634.]~~ *section 5 of this act.*

Sec. 15. NRS 107.420 is hereby amended to read as follows:

107.420 "Foreclosure prevention alternative" means a modification of a loan secured by the most senior residential mortgage loan on the property or any other loss mitigation option. The term includes, without limitation, a sale in lieu of a foreclosure sale, as defined in ~~[NRS 40.4634.]~~ *section 5 of this act.*

Sec. 16. NRS 40.433, 40.4631, 40.4632, 40.4633, 40.4634 and 107.110 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

40.433 "Mortgage or other lien" defined.

40.4631 Definitions.

40.4632 "Foreclosure sale" defined.

40.4633 "Mortgage or other lien" defined.

40.4634 "Sale in lieu of a foreclosure sale" defined.

107.110 Maintenance of residential property purchased at trustee's sale.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 453 clarifies that the so-called "one-action rule" does not apply in the instance of an action for declaratory relief to ascertain the identity of a person entitled to enforce an instrument that evidences a debt or obligation secured by a mortgage or other lien on real property.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 472.

Bill read second time.

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

Amendment No. 384.

SUMMARY—Revises provisions governing the eligibility of state officers and employees for health benefits. (BDR 23-1193)

AN ACT relating to public employees; revising provisions governing the eligibility of newly hired public officers and employees for participation in the Public Employees' Benefits Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law prohibits a waiting period of longer than 90 days for a newly hired employee to join an employer sponsored health care plan. (Patient Protection and Affordable Care Act, Pub. L. No. 111-148, § 2708; 26 C.F.R. § 54.9815-2708)

Existing state law creates a Public Employees' Benefits Program to provide group life, accident or health insurance to certain public employees, state officers and members of the Legislature in this State. (NRS 287.043) Under existing law, professional employees of the Nevada System of Higher Education are eligible to enroll in the Program: (1) on the effective date of their employment contracts, if that date is the first day of the month; or (2) on the first day of the month immediately following the effective date of their employment contracts. All other public employees, state officers and members of the Legislature who may participate in the Program become eligible to enroll on the first day of the month after the completion of 90 days of full-time employment or service in office. (NRS 287.045)

This bill revises the date on which certain public employees, state officers and members of the Legislature become eligible to participate in the Program to: (1) the date of hire or first day of the term of office of the public employee, state officer or member of the Legislature if that date is the first day of the month; or (2) the first day of the month immediately following the date of hire or first day of the term of office of the public employee, state officer or member of the Legislature.

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

Section 1. NRS 287.045 is hereby amended to read as follows:

287.045 1. Except as otherwise provided in this section, every state officer or employee *who is employed in a full-time position* is eligible to participate in the Program on ~~the~~ :

(a) *The first day of full-time employment of the state officer or employee, if that date is the first day of the month; or*

(b) *The first day of the month immediately following the ~~completion of 90 days~~ first day of full-time employment ~~of~~ of the state officer or employee.*

2. Professional employees of the Nevada System of Higher Education who have annual employment contracts are eligible to participate in the Program on:

(a) The effective dates of their respective employment contracts, if those dates are on the first day of a month; or

(b) The first day of the month *immediately* following the effective dates of their respective employment contracts, if those dates are not on the first day of a month.

3. Every officer or employee who is employed by a participating local governmental agency on a permanent and full-time basis on the date on which the participating local governmental agency enters into an agreement to participate in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, and every officer or employee who commences employment with that participating local governmental agency after that date, is eligible to participate in the Program on ~~the~~ :

(a) *The first day of full-time employment of the officer or employee, if that date is the first day of the month; or*

(b) *The first day of the month immediately following the ~~completion of 90 days~~ first day of full-time employment ~~of~~ of the officer or employee,*
 ↪ unless that officer or employee is excluded pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.

4. Every member of the Senate and Assembly is eligible to participate in the Program on ~~the~~ :

(a) *The first day of the initial term of office of the member, if that date is the first day of the month; or*

(b) *The first day of the month immediately following the ~~90th day after the member's initial term of office begins~~ first day of the initial term of office of the member.*

5. *For each eligible person identified in subsections 1 to 4, inclusive, the Program must receive the notice required pursuant to NRS 287.0439 before the date on which the person is eligible to enroll in the Program. If the Program does not receive the notice required pursuant to NRS 287.0439 before the date on which the person is eligible to enroll in the Program, the person will not be eligible to enroll in the Program until the first day of the month immediately after the Program received the notice required pursuant to NRS 287.0439 for that person.*

6. *Each person identified in subsections 1, 2 and 3 must enroll or decline coverage in the Program before the end of the first month in which he or she is eligible to enroll in the Program. If the person fails to enroll or decline coverage in the Program before the end of the first month in which he or she is eligible to enroll in the Program, he or she will be automatically enrolled on an individual basis, without coverage for dependents, in the base plan offered by the Program. Such a person must be allowed to:*

(a) *Change the plan in which ~~they are~~ the person is enrolled during the next period of open enrollment; and*

(b) *Add eligible dependents during the next period of open enrollment or after meeting the applicable terms and conditions of the Program.*

7. Notwithstanding the provisions of subsections 1, 3 and 4, if the Board does not, pursuant to NRS 689B.580, elect to exclude the Program from

compliance with NRS 689B.340 to 689B.580, inclusive, and if the coverage under the Program is provided by a health maintenance organization authorized to transact insurance in this State pursuant to chapter 695C of NRS, any affiliation period imposed by the Program may not exceed the statutory limit for an affiliation period set forth in NRS 689B.500.

8. *As used in this section, "base plan" means the plan designated by the Board as the default plan for the year as described in the Program documents.*

Sec. 2. This act becomes effective on July 1, 2015.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

This amendment makes a correction to the Public Employees Benefit Program, instead of saying, "an option of enrolling in the program or declining coverage", it says "declined coverage". I do not believe we want to talk about declining coverage.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 507.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bills Nos. 325, 414, 472 be re-referred to the Committee on Finance, upon return from reprint.

Motion carried.

Senator Kieckhefer moved that Senate Bills Nos. 323, 412, 507 be taken from General File and re-referred to the Committee on Finance.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 47.

Bill read third time.

Remarks by Senator Atkinson.

Senate Bill No. 47 revises laws related to local improvement districts. The bill revises the definition of a commercial area vitalization project, changing the term to neighborhood improvement project, to allow the establishment of such a project in any area of the local improvement district instead of an area zoned primarily for business or commercial purposes. A waterfront project is added to the list of allowable projects. The population cap is removed to allow the governing body in a county with a population of 700,000 or more to levy one or more special assessments for the extraordinary maintenance, repair and improvement of the neighborhood improvement project for which the improvement district has been created. The amount of money to be set aside for the surplus and deficiency fund is increased from \$25,000 to \$50,000, and the authorized uses of the fund are expanded.

The bill allows the governing body to grant authority, by resolution, to the treasurer to reduce or waive interest as long as such reduction or waiver does not impair a municipality's ability to pay its bond obligations. Finally, the measure revises provisions relevant to the collection of delinquent assessments prior to a county conveying a deed. This bill is effective on July 1, 2015.

Roll call on Senate Bill No. 47:

YEAS—21.

NAYS—None.

Senate Bill No. 47 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 78.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 78 authorizes any person, firm, company, association or corporation claiming overvaluation or excessive valuation of its property that is centrally assessed by the Department of Taxation to file an appeal of that assessment directly to the State Board of Equalization without first filing an appeal to the County Board of Equalization.

The direct appeal to the State Board of Equalization must be filed by January 15, which corresponds with the date an appeal must be submitted to the County Board of Equalization under current law. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day. This act becomes effective on July 1, 2015.

Roll call on Senate Bill No. 78:

YEAS—21.

NAYS—None.

Senate Bill No. 78 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 112.

Bill read third time.

Remarks by Senator Settelmeyer.

Senate Bill No. 112 makes discretionary the adoption of regulations by the Public Utilities Commission of Nevada setting forth the standards of performance and penalties for nonrural incumbent local-exchange carriers. This bill is effective on July 1, 2015.

Roll call on Senate Bill No. 112:

YEAS—21.

NAYS—None.

Senate Bill No. 112 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 232.

Bill read third time.

Remarks by Senator Manendo.

Senate Bill No. 232 provides a right to reimbursement in situations in which an insurer, managed care organization, third-party administrator or employer appeals an order of a hearing officer, appeals officer or district court and the order is not stayed pending the appeal. In such a situation, if the appeal is successful, the insurer, managed care organization, third-party administrator or employer is entitled to seek reimbursement from the injured employee's health or casualty insurer for payments made while the appeal was pending.

The bill also revises provisions concerning the reopening of a claim such that an employee has 1 year to file an application to reopen a claim if the employee was not incapacitated from earning full wages for at least 5 consecutive days or 5 cumulative days within a 20-day period.

Further, the measure provides that an employee who has sustained more than one permanent partial disability may not receive compensation for any portion of the injury that is based on a

combined permanent partial disability rating for all the employee's injuries that exceeds 100 percent. This bill is effective upon passage and approval for the purposes of adopting any regulations or performing any preparatory administrative tasks, and on January 1, 2016, for all other purposes.

Roll call on Senate Bill No. 232:

YEAS—21.

NAYS—None.

Senate Bill No. 232 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 377.

Bill read third time.

Remarks by Senator Spearman.

Senate Bill No. 377 specifically provides that any appeal to a county board of equalization filed by mail is deemed to be filed based on the date the envelope is postmarked by the post office.

If the postmark date is omitted or illegible, the appeal is deemed to be filed on the day the appeal is received. Any postmark not provided directly by the post office does not establish that an appeal is timely filed.

The bill also specifies that the methodology provided in current law, for equally allocating the taxable value of common elements within a common-interest community to each of the units within the community, may be used only if the community association provides the county assessor with the information necessary to identify the units to which the taxable value of the common elements must be allocated.

If the community association does not provide such information to the county assessor, the property taxes on common elements must be paid by the person or association who is the owner of the common elements. This act becomes effective on July 1, 2015.

Roll call on Senate Bill No. 377:

YEAS—21.

NAYS—None.

Senate Bill No. 377 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 448.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 448 authorizes a county treasurer to deposit county money in insured deposit accounts under certain circumstances. Similarly, the bill authorizes the State Treasurer, with the approval of the State Board of Finance; a city treasurer, with unanimous consent of his or her bondsmen; an incorporated city, or other local government to enter into an agreement with certain entities for the deposit or redeposit of certain public money. If the amount of public money deposited in such an account exceeds the limits of insurance provided by an instrumentality of the United States, the insured bank, insured credit union, or insured savings and loan association in which the county money is initially deposited is required to: 1) arrange for the redeposit of the amount of the county money that exceeds such limits of insurance in one or more other insured banks, insured credit unions, or insured savings and loan associations; and 2) ensure that the total amount of county money re-deposited in an account is within the limits of such insurance. This measure is effective on July 1, 2015.

Roll call on Senate Bill No. 448:

YEAS—21.

NAYS—None.

Senate Bill No. 448 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senator Roberson moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 1:37 p.m.

SENATE IN SESSION

At 6:45 p.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 194, 371, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES A. SETTELMAYER, *Chair*

Mr. President:

Your Committee on Education, to which were referred Senate Bills Nos. 211, 220, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BECKY HARRIS, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which were referred Senate Bills Nos. 48, 422, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOSEPH P. HARDY, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 138, 167, 174, 320, 388, 395, 445, 446, 464; Senate Joint Resolution No. 17, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

GREG BROWER, *Chair*

Mr. President:

Your Committee on Revenue and Economic Development, to which was referred Senate Bill No. 94, 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 Revenue and Economic Development, to which was re-referred Senate Bill No. 252, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL ROBERSON, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Senate Bills Nos. 354, 457, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SCOTT HAMMOND, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bill No. 153 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

Senator Kieckhefer moved that Senate Bill No. 478 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 60.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 344.

SUMMARY—Revises various provisions related to the Office of the Attorney General. (BDR 16-470)

AN ACT relating to the Office of the Attorney General; transferring authority over the application for a fictitious address from the Secretary of State to the Attorney General; ~~requiring the clerk of the court rather than the prevailing party to deliver any court ruling declaring a provision of the Nevada Constitution or state law in violation of the Nevada Constitution or United States Constitution to the Office of the Attorney General;~~ creating the Office of Military Legal Assistance in the Office of the Attorney General; ~~creating the position of Victim Services Officer within the Office of the Attorney General;~~ extending the date for expiration of the Substance Abuse Working Group; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Secretary of State to issue a fictitious address to a victim, or the parent or guardian of a victim, of domestic violence, human trafficking, sexual assault or stalking who applies for the issuance of a fictitious address. (NRS 217.462-217.471) Sections 1-5 and 17 of this bill transfer the authority over this application process to the Office of the Attorney General.

Sections 10 and 11 of this bill create the Office of Military Legal Assistance in the Office of the Attorney General. ~~Section 12 of this bill creates the position of Victim Services Officer within the Office of the Attorney General. Sections 12-15 of this bill further provide that the Victim Services Officer shall act as the Executive Director of the Committee on Domestic Violence, the Nevada Council for the Prevention of Domestic Violence, the Substance Abuse Working Group and the Victim Information Notification Everyday System, as well as carrying out other duties of the~~

~~Office of the Attorney General.]~~ Section 16 of this bill extends the termination date of the Substance Abuse Working Group from June 30, 2015, to June 30, 2019.

~~[Existing law requires the prevailing party in a proceeding where the Nevada Supreme Court, a district court or a justice court holds that a provision of the Nevada Constitution or Nevada Revised Statutes violates a provision of the Nevada Constitution or the United States Constitution to deliver a copy of the ruling to the Office of the Attorney General. (NRS 2.165, 3.241, 4.235) Sections 6-8 of this bill transfer this requirement from the prevailing party to the clerk of the court.]~~

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

Section 1. NRS 217.462 is hereby amended to read as follows:

217.462 1. An adult person, a parent or guardian acting on behalf of a child, or a guardian acting on behalf of an incompetent person may apply to the ~~{Secretary of State}~~ *Attorney General* to have a fictitious address designated by the ~~{Secretary of State}~~ *Attorney General* serve as the address of the adult, child or incompetent person.

2. An application for the issuance of a fictitious address must include:

(a) Specific evidence showing that the adult, child or incompetent person has been a victim of domestic violence, human trafficking, sexual assault or stalking before the filing of the application;

(b) The address that is requested to be kept confidential;

(c) A telephone number at which the ~~{Secretary of State}~~ *Attorney General* may contact the applicant;

(d) A question asking whether the person wishes to:

(1) Register to vote; or

(2) Change the address of his or her current registration;

(e) A designation of the ~~{Secretary of State}~~ *Attorney General* as agent for the adult, child or incompetent person for the purposes of:

(1) Service of process; and

(2) Receipt of mail;

(f) The signature of the applicant;

(g) The date on which the applicant signed the application; and

(h) Any other information required by the ~~{Secretary of State}~~ *Attorney General*.

3. It is unlawful for a person knowingly to attest falsely or provide incorrect information in the application. A person who violates this subsection is guilty of a misdemeanor.

4. The ~~{Secretary of State}~~ *Attorney General* shall approve an application if it is accompanied by specific evidence, such as a copy of an applicable record of conviction, a temporary restraining order or other protective order, that the adult, child or incompetent person has been a victim of domestic violence, human trafficking, sexual assault or stalking before the filing of the application.

5. The ~~{Secretary of State}~~ *Attorney General* shall approve or disapprove an application for a fictitious address within 5 business days after the application is filed.

Sec. 2. NRS 217.464 is hereby amended to read as follows:

217.464 1. If the ~~{Secretary of State}~~ *Attorney General* approves an application, the ~~{Secretary of State}~~ *Attorney General* shall:

(a) Designate a fictitious address for the participant; and
(b) Forward mail that the ~~{Secretary of State}~~ *Attorney General* receives for a participant to the participant.

2. The ~~{Secretary of State}~~ *Attorney General* shall not make any records containing the name, confidential address or fictitious address of a participant available for inspection or copying, unless:

(a) The address is requested by a law enforcement agency, in which case the ~~{Secretary of State}~~ *Attorney General* shall make the address available to the law enforcement agency; or

(b) The ~~{Secretary of State}~~ *Attorney General* is directed to do so by lawful order of a court of competent jurisdiction, in which case the ~~{Secretary of State}~~ *Attorney General* shall make the address available to the person identified in the order.

3. If a pupil is attending or wishes to attend a public school that is located outside the zone of attendance as authorized by paragraph (c) of subsection 2 of NRS 388.040 or a public school that is located in a school district other than the school district in which the pupil resides as authorized by NRS 392.016, the ~~{Secretary of State}~~ *Attorney General* shall, upon request of the public school that the pupil is attending or wishes to attend, inform the public school of whether the pupil is a participant and whether the parent or legal guardian with whom the pupil resides is a participant. The ~~{Secretary of State}~~ *Attorney General* shall not provide any other information concerning the pupil or the parent or legal guardian of the pupil to the public school.

Sec. 3. NRS 217.466 is hereby amended to read as follows:

217.466 If a participant indicates to the ~~{Secretary of State}~~ *Attorney General* that the participant wishes to register to vote or change the address of his or her current registration, the ~~{Secretary of State}~~ *Attorney General* shall furnish the participant with the form developed by the Secretary of State pursuant to the provisions of NRS 293.5002.

Sec. 4. NRS 217.468 is hereby amended to read as follows:

217.468 1. Except as otherwise provided in subsections 2 and 3, the ~~{Secretary of State}~~ *Attorney General* shall cancel the fictitious address of a participant 4 years after the date on which the ~~{Secretary of State}~~ *Attorney General* approved the application.

2. The ~~{Secretary of State}~~ *Attorney General* shall not cancel the fictitious address of a participant if, before the fictitious address of the participant is cancelled, the participant shows to the satisfaction of the ~~{Secretary of State}~~ *Attorney General* that the participant remains in

imminent danger of becoming a victim of domestic violence, human trafficking, sexual assault or stalking.

3. The ~~[Secretary of State]~~ *Attorney General* may cancel the fictitious address of a participant at any time if:

(a) The participant changes his or her confidential address from the one listed in the application and fails to notify the ~~[Secretary of State]~~ *Attorney General* within 48 hours after the change of address;

(b) The ~~[Secretary of State]~~ *Attorney General* determines that false or incorrect information was knowingly provided in the application; or

(c) The participant files a declaration or acceptance of candidacy pursuant to NRS 293.177 or 293C.185.

Sec. 5. NRS 217.471 is hereby amended to read as follows:

217.471 The ~~[Secretary of State]~~ *Attorney General* shall adopt procedures to carry out the provisions of NRS 217.462 to 217.471, inclusive.

Sec. 6. ~~[NRS 2.165 is hereby amended to read as follows:]~~

~~2.165 If the Supreme Court holds that a provision of the Nevada Constitution or the Nevada Revised Statutes violates a provision of the Nevada Constitution or the United States Constitution, the [prevailing party in the proceeding] Clerk of the Supreme Court shall provide a copy of the ruling to the Office of the Attorney General.] (Deleted by amendment.)~~

Sec. 7. ~~[NRS 3.241 is hereby amended to read as follows:]~~

~~3.241 If a district court holds that a provision of the Nevada Constitution or the Nevada Revised Statutes violates a provision of the Nevada Constitution or the United States Constitution, the [prevailing party in the proceeding] clerk of the district court shall provide a copy of the ruling to the Office of the Attorney General.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 4.235 is hereby amended to read as follows:]~~

~~4.235 If a justice court holds that a provision of the Nevada Constitution or the Nevada Revised Statutes violates a provision of the Nevada Constitution or the United States Constitution, the [prevailing party in the proceeding] clerk of the court shall provide a copy of the ruling to the Office of the Attorney General.] (Deleted by amendment.)~~

Sec. 9. Chapter 228 of NRS is hereby amended by adding thereto the provisions set forth as sections 10, 11 and 12 of this act.

Sec. 10. *The Office of Military Legal Assistance is hereby created in the Office of the Attorney General.*

Sec. 11. 1. *The Office of Military Legal Assistance may facilitate the delivery of legal assistance programs, pro bono services and self-help services to current and former military personnel in this State.*

2. *The Attorney General may apply for and accept grants, gifts, donations, bequests or devises on behalf of the Office of Military Legal Assistance which must be used to carry out the functions of the Office of Military Legal Assistance.*

Sec. 12. ~~[1. The position of Victim Services Officer is hereby created within the Office of the Attorney General.]~~

~~2. The Attorney General shall appoint a person to serve as the Victim Services Officer.~~

~~3. The Victim Services Officer is in the unclassified service of the State.~~

~~4. The Victim Services Officer shall serve as the Executive Director of:~~

~~(a) The Committee on Domestic Violence appointed pursuant to NRS 228.470;~~

~~(b) The Nevada Council for the Prevention of Domestic Violence created pursuant to NRS 228.480;~~

~~(c) The Substance Abuse Working Group created pursuant to NRS 228.800;~~

~~(d) The Victim Information Notification Everyday System created by NRS 228.205; and~~

~~(e) 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. Under the direction of the Attorney General, the Victim Services Officer shall carry out the provisions of NRS 217.462 to 217.471, inclusive.] (Deleted by amendment.)~~

Sec. 13. ~~[NRS 228.205 is hereby amended to read as follows:~~

~~228.205 1. There is hereby created in the Office of the Attorney General the Victim Information Notification Everyday System, which consists of a toll free telephone number and an Internet website through which victims of crime and members of the public may register to receive automated information and notification concerning changes in the custody status of an offender.~~

~~2. The Attorney General shall:~~

~~(a) Appoint a subcommittee of the Nevada Council for the Prevention of Domestic Violence created by NRS 228.480 to serve as the Governance Committee for the System; and~~

~~(b) Consider nominations by the Council when appointing members of the Governance Committee.~~

~~3. The Governance Committee may adopt policies, protocols and regulations for the operation and oversight of the System.~~

~~4. The Attorney General may apply for and accept gifts, grants and donations for use in carrying out the provisions of this section.~~

~~5. To the extent of available funding, each sheriff and chief of police, the Department of Corrections, the Department of Public Safety and the State Board of Parole Commissioners shall cooperate with the Office of the Attorney General to establish and maintain the System.~~

~~6. The failure of the System to notify a victim of a crime of a change in the custody status of an offender does not establish a basis for any cause of action by the victim or any other party against the State, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions.~~

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

~~— (a) "Custody status" means the transfer of the custody of an offender or the release or escape from custody of an offender.~~

~~— (b) "Offender" means a person convicted of a crime and sentenced to imprisonment in a county jail or in the state prison.] (Deleted by amendment.)~~

Sec. 14. ~~[NRS 228.800 is hereby amended to read as follows:~~

~~228.800 1. The Substance Abuse Working Group is hereby created within the Office of the Attorney General.~~

~~2. The Working Group consists of the [Attorney General] Victim Services Officer appointed pursuant to section 12 of this act and nine members appointed by the Attorney General.~~

~~3. The [Attorney General] Victim Services Officer is the ex officio Chair of the Working Group.~~

~~4. The Working Group shall annually elect a Vice Chair and Secretary from among its members.~~

~~5. Each member who is appointed to the Working Group serves a term of 2 years. Members may be reappointed for additional terms of 2 years. Any vacancy occurring in the membership of the Working Group must be filled not later than 30 days after the vacancy occurs.~~

~~6. The members of the Working Group serve without compensation and are not entitled to the per diem and travel expenses provided for state officers and employees generally.~~

~~7. Each member of the Working Group 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 officer or employee may prepare for and attend meetings of the Working Group and perform any work necessary to carry out the duties of the Working Group 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 Working Group to make up the time the officer or employee is absent from work to carry out duties as a member of the Working Group or use annual leave or compensatory time for the absence.~~

~~8. The Attorney General shall provide such administrative support to the Working Group as is necessary to carry out the duties of the Working Group.] (Deleted by amendment.)~~

Sec. 15. ~~[Section 12 of this act is hereby amended to read as follows:~~

~~Sec. 12. 1. The position of Victim Services Officer is hereby created within the Office of the Attorney General.~~

~~2. The Attorney General shall appoint a person to serve as the Victim Services Officer.~~

~~3. The Victim Services Officer is in the unclassified service of the State.~~

~~4. The Victim Services Officer shall serve as the Executive Director of:~~

~~(a) The Committee on Domestic Violence appointed pursuant to NRS 228.470;~~

~~(b) The Nevada Council for the Prevention of Domestic Violence created pursuant to NRS 228.480;~~

~~(c) [The Substance Abuse Working Group created pursuant to NRS 228.800;~~

~~(d)] The Victim Information Notification Everyday System created by NRS 228.205; and~~

~~[(e)] (d) 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. Under the direction of the Attorney General, the Victim Services Officer shall carry out the provisions of NRS 217.462 to 217.471, inclusive.] (Deleted by amendment.)~~

Sec. 16. Section 5 of chapter 89, Statutes of Nevada 2011, at page 367, is hereby amended to read as follows:

Sec. 5. This act becomes effective on July 1, 2011, and expires by limitation on June 30, ~~{2015.}~~ 2019.

Sec. 17. 1. Any administrative regulations adopted by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of regulations is transferred.

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

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

Sec. 18. 1. This section and section 16 of this act become effective upon passage and approval.

2. Sections 1 to ~~{14.}~~ 5, inclusive, 9, 10, 11 and 17 of this act become effective on ~~{October}~~ July 1, 2015.

~~[3. Section 15 of this act becomes effective on July 1, 2019.]~~

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

This amendment to Senate Bill No. 60 does three things. First, it deletes sections 6 through 8 regarding notification to the Office of the Attorney General of court rulings on constitutionality. Ongoing discussions have indicated that these changes are not needed.

It also deletes sections 12 through 15 regarding changes to the Victim's Services Unit. In other words, no changes are going to be made to the Victim's Services Unit at the Attorney General's Office to this office.

Finally, section 18 is revised to provide that a different effective date for sections 1 through 5 and 10 through 11 is July 1, 2015, in order to grant the Office of the Attorney General authority over the Confidential Address Program and the Office of Military Legal Assistance beginning on that date.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 104.

Bill read second time.

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

Amendment No. 311.

SUMMARY—Makes various changes relating to political advertising. (BDR 24-86)

AN ACT relating to campaign practices; establishing certain exceptions to the requirement that political advertising must disclose information about the person or entity compensating the advertiser or paying for the advertising; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if a person is compensated for publishing, within a specified period before the election, a statement expressly advocating the election or defeat of a candidate for state or local office, the statement must disclose the fact of the compensation and the name of the person, political party or committee for political action providing that compensation. (NRS 294A.347) Existing law also requires that certain types of political advertising must include: (1) a disclosure of the name of the person, political party or committee that paid for the advertising; and (2) if the advertising is approved by a candidate, a statement to that effect and additional information about the person or entity that paid for the advertising. (NRS 294A.348) This bill establishes exceptions to those disclosure requirements for any article of clothing, regardless of its cost, and certain other forms of political advertising having a retail cost per item of less than \$5.

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

Section 1. Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of NRS 294A.347 and subsections 1 and 2 of NRS 294A.348 do not apply to any statement or communication appearing on:

1. *Any cap, hat, shirt or other article of clothing, regardless of its cost;*
or

2. *Except as otherwise provided in this subsection, any item having a retail cost per item of less than \$5, including, without limitation, any button, pen, pencil, ruler, magnet, key tag, emery board, comb, letter opener, can holder, bottle opener, jar opener, balloon or piece of candy. The exclusion otherwise provided by this subsection does not apply to any door hanger, bumper sticker, yard sign or advertising through a television or radio broadcast, newspaper, magazine, outdoor advertising facility or mailing.*

Sec. 2. NRS 294A.347 is hereby amended to read as follows:

294A.347 1. ~~[A]~~ *Except as otherwise provided in section 1 of this act, a statement which:*

(a) Is published within 60 days before a general election or special election or 30 days before a primary election;

(b) Expressly advocates the election or defeat of a clearly identified candidate for a state or local office; and

(c) Is published by a person who receives compensation from the candidate, an opponent of the candidate or a person, political party or committee for political action,

↪ must contain a disclosure of the fact that the person receives compensation pursuant to paragraph (c) and the name of the person, political party or committee for political action providing that compensation.

2. A statement which:

(a) Is published by a candidate within 60 days before a general election or special election or 30 days before a primary election; and

(b) Contains the name of the candidate,

↪ shall be deemed to comply with the provisions of this section.

3. As used in this section, "publish" means the act of:

(a) Printing, posting, broadcasting, mailing or otherwise disseminating; or

(b) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated.

Sec. 3. NRS 294A.348 is hereby amended to read as follows:

294A.348 1. ~~[A]~~ *Except as otherwise provided in section 1 of this act, a person, committee for political action, political party or committee sponsored by a political party that expends more than \$100 for the purpose of financing a communication through any television or radio broadcast, newspaper, magazine, outdoor advertising facility, mailing or any other type of general public political advertising that:*

(a) Advocates expressly the election or defeat of a clearly identified candidate or group of candidates; or

(b) Solicits a contribution through any television or radio broadcast, newspaper, magazine, outdoor advertising facility, mailing or any other type of general public political advertising,

↪ shall disclose on the communication the name of the person, committee for political action, political party or committee sponsored by a political party that paid for the communication.

2. ~~HF~~ Except as otherwise provided in section 1 of this act, if a communication described in subsection 1 is approved by a candidate, in addition to the requirements of subsection 1, the communication must state that the candidate approved the communication and disclose the street address, telephone number and Internet address, if any, of the person, committee for political action, political party or committee sponsored by a political party that paid for the communication.

3. A person, committee for political action, political party or committee sponsored by a political party that has an Internet website available for viewing by the general public or that sends out an electronic mailing to more than 500 people that:

(a) Advocates expressly the election or defeat of a clearly identified candidate or group of candidates; or

(b) Solicits a contribution through any television or radio broadcast, newspaper, magazine, outdoor advertising facility, mailing or any other type of general public political advertising,

➔ shall disclose on the Internet website or electronic mailing, as applicable, the name of the person, committee for political action, political party or committee sponsored by a political party.

4. The disclosures and statements required pursuant to this section must be clear and conspicuous, and easy to read or hear, as applicable.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Amendment No. 311 to Senate Bill No. 104 clarifies that an item covered under this bill have a retail cost of less than \$5 per item.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 142.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 402.

SUMMARY—Revises provisions governing ~~the equipment and training required to operate a motorcycle;~~ motor vehicles. (BDR 43-718)

AN ACT relating to ~~motorcycles;~~ motor vehicles; revising the definition of a trimobile; ~~revising provisions governing the wearing of protective headgear when operating motorcycles under certain circumstances;~~ requiring that all applicants for a motorcycle driver's license or endorsement complete an approved motorcycle safety course; revising provisions governing the Account for the Program for the Education of Motorcycle Riders; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines a ~~motorcycle~~ trimobile to mean a motor vehicle ~~equipped with a seat or a saddle and~~ designed to travel ~~on not more than~~

~~with three wheels [~~specifically excluding an electric bicycle, a tractor and a moped. (NRS 486.041) Under existing law, an applicant for a motorcycle driver's license is required to complete a written examination or complete a course of motorcycle safety approved by the Department of Motor Vehicles. (NRS 486.071) A person who holds a driver's license and seeks a motorcycle endorsement must successfully pass a driving test conducted by the Department or a course of motorcycle safety approved by the Department. (NRS 486.161) Sections 1 3 of this bill require all applicants for a motorcycle driver's license or a motorcycle endorsement to a driver's license to successfully complete an approved motorcycle safety course. Section 5 of this bill exempts a person who obtains such a license or endorsement before July 1, 2015, from the requirement to successfully complete an approved motorcycle safety course.~~~~

~~Existing law requires drivers and passengers of motorcycles that are driven on a highway to wear protective headgear and exempts drivers and passengers of trimobiles and mopeds from the requirements. (NRS 486.231) Section 4 of this bill eliminates the requirement of wearing protective headgear for drivers of motorcycles who: (1) are 21 years of age or older; and (2) have possessed a valid motorcycle license for not less than 1 year. Section 4 also removes the exception from these requirements concerning protective headgear for trimobiles and mopeds. Additionally, section 4 eliminates the requirement of wearing protective headgear for a passenger of a motorcycle who is 21 years of age or older.] on the ground, two of which are power driven. (NRS 482.129, 486.057) Sections 3.3 and 3.7 of this bill revise the definition of a trimobile to provide that at least one of the wheels must be power driven and excludes from the definition a motorcycle with a sidecar.~~

~~Existing law provides for an Account for the Program for the Education of Motorcycle Riders and authorizes the use of money from the Account to pay the expenses of the Program for the Education of Motorcycle Riders or for any other purpose authorized by the Legislature. (NRS 486.372) Section 4.5 of this bill removes the provision allowing money from the Account to be used for any other purpose authorized by the Legislature.~~

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

Section 1. ~~[NRS 486.071 is hereby amended to read as follows:~~

~~486.071 Except as otherwise provided in NRS 486.161, the Department shall not issue a motorcycle driver's license unless the applicant:~~

- ~~1. Is at least 16 years of age; and~~
- ~~2. Has successfully completed:~~
 - ~~(a) Such written examination and driving test as may be required by the Department; [or] and~~
 - ~~(b) A course of motorcycle safety approved by the Department.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 486.131 is hereby amended to read as follows:~~

~~486.131 1. The Department may require every applicant for a motorcycle driver's license to submit to an examination conducted by the Department . . . [or successfully complete a course of motorcycle safety approved by the Department.]~~

~~2. An examination may be held in the county where the applicant resides within 30 days after the date application is made and may include:~~

~~(a) A test of the applicant's ability to understand official devices used to control traffic;~~

~~(b) A test of the applicant's knowledge of practices for safe driving and the traffic laws of this State;~~

~~(c) Except as otherwise provided in a regulation adopted pursuant to subsection 2 of NRS 483.330, a test of the applicant's eyesight; and~~

~~(d) An actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motorcycle.~~

~~→ The examination may also include such further physical and mental examination as the Department finds necessary to determine the applicant's fitness to drive a motorcycle safely upon the highways.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 486.161 is hereby amended to read as follows:~~

~~486.161 1. Except as otherwise provided in subsection 5, every motorcycle driver's license expires as prescribed by regulation.~~

~~2. The Department shall adopt regulations prescribing when a motorcycle driver's license expires.~~

~~3. Every license is renewable at any time before its expiration upon application, submission of the statement required pursuant to NRS 486.084 and payment of the required fee. Every motorcycle endorsement to a driver's license issued on or after January 1, 1972, expires simultaneously with the expiration of the driver's license.~~

~~4. Except as otherwise provided in subsection 1 of NRS 483.384, each applicant for renewal must appear before an examiner for a driver's license and successfully pass a test of the applicant's eyesight.~~

~~5. Any person who has been issued a driver's license without having the authority to drive a motorcycle endorsed thereon must, before driving a motorcycle, successfully : [pass:]~~

~~(a) [A] Pass such driving test [conducted] as may be required by the Department; [or] and~~

~~(b) [A] Complete a course of motorcycle safety approved by the Department;]~~

~~→ and have the authority endorsed upon the license.] (Deleted by amendment.)~~

Sec. 3.3. NRS 482.129 is hereby amended to read as follows:

482.129 "Trimobile" means every motor vehicle designed to travel with three wheels in contact with the ground, ~~[two]~~ at least one of which ~~[are]~~ is power driven. The term does not include a motorcycle with a sidecar.

Sec. 3.7. NRS 486.057 is hereby amended to read as follows:

486.057 "Trimobile" means every motor vehicle designed to travel with three wheels in contact with the ground, ~~[two]~~ at least one of which ~~[are]~~ is power driven. The term does not include a motorcycle with a sidecar.

Sec. 4. ~~[NRS 486.231 is hereby amended to read as follows:~~

~~486.231 1. The Department shall adopt standards for protective headgear and protective glasses, goggles or face shields to be worn by the drivers and passengers of motorcycles and transparent windscreens for motorcycles.~~

~~2. Except as otherwise provided in this section, when any motorcycle [except a trimobile or moped] is being driven on a highway [.]:~~

~~(a) The driver shall wear protective headgear which meets the standards adopted pursuant to subsection 1 and is securely fastened on his or her head, unless the driver:~~

~~(1) Is 21 years of age or older; and~~

~~(2) Has been licensed to operate a motorcycle for not less than 1 year.~~

~~(b) Any passenger of the motorcycle shall wear protective headgear which meets the standards adopted pursuant to subsection 1 and is securely fastened on his or her head, unless the passenger is 21 years of age or older.~~

~~(c) Both the driver and any passenger shall wear [protective headgear securely fastened on the head and] protective glasses, goggles or face shields [meeting those standards. Drivers and passengers of trimobiles shall wear protective glasses, goggles or face shields] which meet [those] the standards [.] adopted pursuant to subsection 1.~~

~~3. When a motorcycle [or a trimobile] is equipped with a transparent windscreen [meeting those standards,] which meets the standards adopted pursuant to subsection 1, the driver and any passenger are not required to wear protective glasses, goggles or face shields.~~

~~4. When a motorcycle is being driven in a parade authorized by a local authority, the driver and any passenger are not required to wear the protective devices provided for in this section.~~

~~5. When a three wheel motorcycle on which the driver and any passengers ride within an enclosed cab is being driven on a highway, the driver and passengers are not required to wear the protective devices required by this section.] (Deleted by amendment.)~~

Sec. 4.5. NRS 486.372 is hereby amended to read as follows:

486.372 1. The Director shall:

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

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

(c) Consult regularly with the Advisory Board on Motorcycle Safety concerning the content and implementation of the Program.

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

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

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

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

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

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

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

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

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

Sec. 5. ~~[Notwithstanding the amendatory provisions of this act, the requirements to successfully complete an approved motorcycle safety course before obtaining a motorcycle driver's license or a motorcycle endorsement to a driver's license does not apply to a person who obtains such a license or endorsement before July 1, 2015.] (Deleted by amendment.)~~

Sec. 6. This act becomes effective upon passage and approval.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 402 to Senate Bill No. 142 does the following: 1) deletes sections of the bill related to motorcycle helmets and obtaining a motorcycle license or endorsement; 2) clarifies the definition of "tri-mobile"; 3) provides that the money in the Account for the Program for the Education of Motorcycle Riders may only be used to pay the expenses of the Program and not for any other purpose.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 183.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 403.

SUMMARY—Makes various changes relating to the Nevada Transportation Authority. (BDR 58-717)

AN ACT relating to motor carriers; revising the declaration of legislative purpose and policy governing the regulation of certain motor carriers; revising the criteria for granting or modifying certificates of public convenience and necessity for certain motor carriers; revising provisions governing participation as an intervener in a hearing on an application for such a certificate; revising provisions governing the filing of an application

for a certificate of public convenience and necessity by a person whose previous application has been denied; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the regulation of certain motor carriers in this State by the Nevada Transportation Authority. (NRS 706.011-706.791) The Authority is required to carry out its duties in accordance with certain purposes and policies declared by the Legislature, which include, without limitation: (1) providing for fair and impartial regulation; (2) promoting safe, adequate, economical and efficient service; (3) fostering sound economic conditions in the motor carrier industry; and (4) discouraging practices which would tend to increase or create detrimental competition in motor transportation. (NRS 706.151) Section 1 of this bill revises these purposes and policies to state that the Legislature intends to provide for fair and impartial regulation and to promote safe service in motor transportation.

Existing law provides that it is unlawful for certain motor carriers to conduct operations unless the motor carrier has obtained a certificate of public convenience and necessity from the Authority. (NRS 706.386) The Authority is required to grant an application for a certificate of public convenience and necessity if the Authority finds that the applicant and its proposed operations satisfy certain criteria. (NRS 706.391) Section 2 of this bill revises those criteria by eliminating requirements that the Authority find that the market which the applicant intends to serve will support the operations proposed by the applicant and that granting the application: (1) will foster sound economic conditions in the applicable industry; (2) will not unreasonably and adversely affect other motor carriers operating in the same territory as the applicant; and (3) will benefit the motor carrier business in this State. Section 2 also provides that the Authority may only allow a person to intervene regarding such an application if the person has actual or constructive knowledge that the applicant poses a threat to the physical safety of the traveling public.

Section 3 of this bill reduces from 180 days to 60 days the length of time that a person whose application for a certificate of public convenience and necessity to operate as a motor carrier is denied must wait before submitting a similar application.

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

Section 1. NRS 706.151 is hereby amended to read as follows:

706.151 1. It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter:

(a) Except to the extent otherwise provided in NRS 706.881 to 706.885, inclusive, to confer upon the Authority the power and to make it the duty of the Authority to regulate fully regulated carriers, operators of tow cars and brokers of regulated services to the extent provided in this chapter and to confer upon the Department of Motor Vehicles the power to license all motor

carriers and to make it the duty of the Department of Motor Vehicles and the Department of Public Safety to enforce the provisions of this chapter and the regulations adopted by the Authority pursuant to it, to relieve the undue burdens on the highways arising by reason of the use of the highways by vehicles in a gainful occupation thereon.

(b) To provide for reasonable compensation for the use of the highways in gainful occupations, and enable the State of Nevada, by using license fees, to provide for the proper construction, maintenance and repair thereof, and thereby protect the safety and welfare of the traveling and shipping public in their use of the highways.

(c) To provide for fair and impartial regulation ~~{,} and to promote safe {,} adequate, economical and efficient~~ service ~~{and to foster sound economic conditions}~~ in motor transportation.

(d) To encourage the establishment and maintenance of reasonable charges for:

(1) Intrastate transportation by fully regulated carriers; and

(2) Towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle,
 ➔ without unjust discriminations against or undue preferences or advantages being given to any motor carrier or applicant for a certificate of public convenience and necessity.

~~{(e) To discourage any practices which would tend to increase or create competition that may be detrimental to the traveling and shipping public or the motor carrier business within this State.}~~

2. All of the provisions of this chapter must be administered and enforced with a view to carrying out the declaration of policy contained in this section.

Sec. 2. NRS 706.391 is hereby amended to read as follows:

706.391 1. Upon the filing of an application for a certificate of public convenience and necessity to operate as a common motor carrier, other than an operator of a tow car, or an application for modification of such a certificate, the Authority ~~{shall}~~ may fix a time and place for a hearing on the application.

2. Except as otherwise provided in subsection ~~{6,}~~ 5, the Authority shall grant the certificate or modification if it finds that:

(a) The applicant is financially and operationally fit, willing and able to perform the services of a common motor carrier ~~{and that the operation of, and the provision of such services by, the applicant as a common motor carrier will foster sound economic conditions}~~ within the applicable industry;

(b) The proposed operation or the proposed modification will be consistent with the legislative policies set forth in NRS 706.151;

(c) ~~{The granting of the certificate or modification will not unreasonably and adversely affect other carriers operating in the territory for which the certificate or modification is sought;}~~

~~—(d)~~ The proposed operation or the proposed modification ~~{will benefit and protect}~~ *is not inconsistent with* the safety and convenience of the traveling and shipping public ~~{and the motor carrier business}~~ in this State;

~~{(e)}~~ (d) The proposed operation, or service under the proposed modification, will be provided on a continuous basis;

~~{(f)}~~ ~~The market identified by the applicant as the market which the applicant intends to serve will support the proposed operation or proposed modification; and~~

~~—(g)~~ and

(e) The applicant has paid all fees and costs related to the application.

3. ~~{The Authority shall not find that the potential creation of competition in a territory which may be caused by the granting of the certificate or modification, by itself, will unreasonably and adversely affect other carriers operating in the territory for the purposes of paragraph (c) of subsection 2.~~

~~—4.~~ In determining whether the applicant is fit to perform the services of a common motor carrier pursuant to paragraph (a) of subsection 2, the Authority shall consider whether the applicant has violated any provision of this chapter or any regulations adopted pursuant thereto.

~~{5.}~~ 4. The applicant for the certificate or modification:

(a) Must submit 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;

(b) Has the burden of proving to the Authority that the proposed operation will meet the requirements of subsection 2; and

(c) Must pay the *reasonable* amounts billed to the applicant by the Authority for the costs incurred by the Authority in conducting any investigation regarding the applicant and the application.

~~{6.}~~ 5. The provisions of subsections 2 ~~{to 5, inclusive.}~~, 3 and 4 do not apply to an owner or operator of a charter bus. The Authority shall grant the certificate or modification to an owner or operator of a charter bus that is not a fully regulated carrier if the Authority finds that the owner or operator of the charter bus has complied with the provisions of subsection 1 of NRS 706.463 and any applicable regulations of the Authority.

~~{7.}~~ 6. The Authority may issue or modify a certificate of public convenience and necessity to operate as a common motor carrier, or issue or modify it for:

(a) The exercise of the privilege sought.

(b) The partial exercise of the privilege sought.

~~{8.}~~ 7. The Authority may attach to the certificate such terms and conditions as, in its judgment, the public ~~{interest}~~ *health and safety* may require.

~~[9.]~~ 8. *A person who desires to participate as an intervener in a hearing on an application for a certificate or modification pursuant to this section may file a petition for leave to intervene with the Authority. The Authority shall grant such a petition if the petitioner demonstrates actual or constructive knowledge of an issue relating to the safe operation by the applicant as a common motor carrier.*

9. The Authority may dispense with the hearing on the application if, upon the expiration of the time fixed in the notice thereof, no petition to intervene has been filed ~~for behalf of any person who has filed a protest against the granting of the certificate or modification.~~ *pursuant to subsection 8.*

10. *As used in this section, "issue relating to the safe operation" means information that has a direct relation to the ability of the applicant to operate safely as a common motor carrier, including, without limitation, information showing that the applicant:*

(a) Operates a vehicle that does not meet the applicable requirements of this chapter or in some other way poses a threat to the physical safety of the traveling public; or

(b) Employs a driver who does not meet the applicable requirements of this chapter or in some other way poses a threat to the physical safety of the traveling public.

Sec. 3. NRS 706.396 is hereby amended to read as follows:

706.396 Any person who, after hearing, has been denied a certificate of public convenience and necessity to operate as a carrier must not be permitted again to file a similar application with the Authority covering the same type of service and over the same route or routes or in the same territory for which the certificate of public convenience and necessity was denied except after the expiration of ~~[180]~~ 60 days after the date the certificate of public convenience and necessity was denied.

Senator Gustavson moved the adoption of the amendment.

Remarks by Senator Gustavson.

Amendment No. 403 to Senate Bill No. 183: 1) allows a person who desires to participate as an intervener in a hearing on a motor carrier application for a certificate of public convenience and necessity to intervene only on matters related to public safety; and 2) provides that the Nevada Transportation Authority may only grant a petition to intervene if the petitioner has actual or constructive knowledge that the applicant poses a threat to the physical safety of the traveling public.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 197.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 130.

SUMMARY—Prohibits the filing of false or fraudulent liens or encumbrances against certain persons. (BDR 15-653)

AN ACT relating to liens; prohibiting the filing of a lien or other encumbrance against the property of certain persons under certain circumstances; revising provisions concerning the validity of certain liens filed against certain persons; providing criminal and civil penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the crime of making a false representation concerning title, and provides that a person who makes a false representation concerning title is guilty of a category C felony. If the person engages in a pattern of making false representations concerning title, the person is guilty of a category B felony. In addition, a person who commits this crime is subject to a civil penalty of not more than \$5,000, and the owner or the holder of the beneficial interest in the real property may bring a civil action for damages suffered because of the false representation and for attorney's fees and costs. (NRS 205.395) Existing law also provides that a person who willfully promotes the filing of or causes the filing of a record in the Office of the Secretary of State which is forged or fraudulently altered, contains a false statement of material fact or is filed in bad faith for the purpose of harassing or defrauding any person is liable in a civil action for each violation. (NRS 225.084) Additionally, existing law makes it a category C felony to knowingly procure or offer any false or forged instrument to be filed, registered or recorded in any public office. (NRS 239.330)

Section 1 of this bill similarly prohibits a person from filing, registering, recording or presenting, in any public office, a lien or other encumbrance against the property of a public officer, candidate for public office, public employee or participant in an official proceeding or a member of the immediate family of such persons, if the lien or encumbrance is forged or fraudulently altered, contains a false statement of material fact or is filed, registered, recorded or presented in bad faith for the purpose of harassing or defrauding such persons. A person who violates section 1 is guilty of a category B felony and may be punished by imprisonment in the state prison for not less than 2 years or by a fine of not more than \$20,000, or both. If the person commits a second or subsequent offense, or engages in a pattern or practice of filing such liens or encumbrances, the person may be punished by imprisonment in the state prison for up to 20 years or a fine of up to \$150,000, or both. Section 1 also provides a civil penalty of \$20,000 for each violation and authorizes a person to bring a civil action for damages suffered and attorney's fees and costs.

Existing law provides that a lien filed against a public officer or employee which is based on the performance of or failure to perform an official duty is invalid unless the filing of the lien is authorized by a specific statute or court order. (NRS 281.405) Section 5 of this bill extends such invalidity: (1) to encompass any encumbrance filed against real or personal property; and (2) to include candidates for public office, participants in official proceedings

and the immediate families of public officers, candidates for public office, public employees and such participants.

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A person shall not file, register or record, or present for filing, registration or recording, in any public office, a lien or other encumbrance against the real or personal property of a public officer, candidate for public office, public employee or participant in an official proceeding, or a member of the immediate family of a public officer, candidate for public office, public employee or participant, which is based on the performance of or failure to perform a duty relating to the office, employment or participation by the public officer, candidate for public office, public employee or participant if the person knows or has reason to know that the lien or encumbrance:*

- (a) Is forged or fraudulently altered;*
- (b) Contains a false statement of material fact; or*
- (c) Is being filed, registered, recorded or presented in bad faith or for the purpose of harassing or defrauding any person.*

2. *Except as otherwise provided in subsection 3, a person who violates this section is guilty of a category B felony and shall be punished:*

(a) For a first offense, by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, or by a fine of not more than \$20,000, or by both fine and imprisonment.

(b) For a second or subsequent offense, by imprisonment in the state prison for a minimum term of not less than ~~4~~ 2 years and a maximum term of not more than 20 years, or by a fine of not more than \$50,000, or by both fine and imprisonment.

3. *A person whose violation of this section is part of a pattern, or consistent with a practice, of committing such violations is guilty of a category B felony and shall be punished:*

(a) For a first offense, by imprisonment in the state prison for a minimum term of not less than ~~6~~ 3 years and a maximum term of not more than 20 years, or by a fine of not more than \$100,000, or by both fine and imprisonment.

(b) For a second or subsequent offense, by imprisonment in the state prison for a minimum term of not less than ~~8~~ 5 years and a maximum term of not more than 20 years, or by a fine of not more than \$150,000, or by both fine and imprisonment.

4. *In addition to the criminal penalties imposed for a violation of this section, a person who violates this section is subject to a civil penalty of not more than \$20,000 for each violation. This penalty may be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs.*

5. *A person who violates this section is liable in a civil action brought pursuant to this section for:*

- (a) Actual damages caused by each separate violation of this section or \$20,000 for each separate violation of this section, whichever is greater;*
- (b) All costs of bringing and maintaining the action, including investigative expenses and fees for expert witnesses;*
- (c) Reasonable attorney's fees; and*
- (d) Any punitive damages that the facts may warrant.*

➔ *The civil action may be brought by any person who is damaged by a violation of this section, including, without limitation, any person who is damaged as the result of an action taken in reliance on a lien or encumbrance that is filed, registered or recorded in violation of this section.*

6. *For the purposes of this section, a person's violation of this section is part of a pattern, or consistent with a practice, of committing such violations if the person commits one or more violations of this section in two or more transactions:*

- (a) Which have the same or similar pattern, purposes, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics;*
- (b) Which are not isolated incidents within the immediately preceding 4 years; and*
- (c) In which the aggregate loss or intended loss is more than \$250.*

7. *As used in this section:*

- (a) "Encumbrance" includes, without limitation, a lis pendens or other notice of the pendency of an action.*
- (b) "Immediate family" means persons who are related by blood, adoption or marriage, within the first degree of consanguinity or affinity.*
- (c) "Lien" means a charge against or an interest in property which is used as security for the payment of a debt or the performance of an obligation. The term includes, without limitation, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, a statutory lien and a security interest.*

(d) "Participant in an official proceeding" includes, without limitation, a juror or witness in a judicial or administrative proceeding or a referee, arbitrator, mediator, appraiser, assessor or other person authorized by law to hear or determine any controversy or matter.

~~*(e) "Public employee" has the meaning ascribed to it in NRS 281A.150.*~~

~~*(f) "Public officer" has the meaning ascribed to it in NRS 281A.160.*~~

Sec. 2. NRS 205.395 is hereby amended to read as follows:

205.395 1. Every person who:

- (a) Claims an interest in, or a lien or encumbrance against, real property in a document that is recorded in the office of the county recorder in which the real property is located and who knows or has reason to know that the document is forged or groundless, contains a material misstatement or false claim or is otherwise invalid;

(b) Executes or notarizes a document purporting to create an interest in, or a lien or encumbrance against, real property, that is recorded in the office of the county recorder in which the real property is located and who knows or has reason to know that the document is forged or groundless, contains a material misstatement or false claim or is otherwise invalid; or

(c) Causes a document described in paragraph (a) or (b) to be recorded in the office of the county recorder in which the real property is located and who knows or has reason to know that the document is forged or groundless, contains a material misstatement or false claim or is otherwise invalid,

➡ has made a false representation concerning title.

2. A person who makes a false representation concerning title in violation of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

3. A person who engages in a pattern of making false representations concerning title 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 3 years and a maximum term of not more than 20 years, or by a fine of not more than \$50,000, or by both fine and imprisonment.

4. In addition to the criminal penalties imposed for a violation of this section, any person who violates this section is subject to a civil penalty of not more than \$5,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs.

5. Except as otherwise provided in this subsection, the owner or holder of the beneficial interest in real property which is the subject of a false representation concerning title may bring a civil action in the district court in and for the county in which the real property is located to recover any damages suffered by the owner or holder of the beneficial interest plus reasonable attorney's fees and costs. The owner or holder of the beneficial interest in the real property must, before bringing a civil action pursuant to this subsection, send a written request to the person who made the false representation to record a document which corrects the false representation. If the person records such a document not later than 20 days after the date of the written request, the owner or holder of the beneficial interest may not bring a civil action pursuant to this subsection.

6. As used in this section ~~[- "pattern"]~~ :

(a) *"Encumbrance" includes, without limitation, a lis pendens or other notice of the pendency of an action.*

(b) *"Pattern of making false representations concerning title" means one or more violations of a provision of subsection 1 committed in two or more transactions:*

~~[(a)]~~ (1) Which have the same or similar pattern, purposes, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics;

~~[(b)]~~ (2) Which are not isolated incidents within the preceding 4 years;
and

~~[(c)]~~ (3) In which the aggregate loss or intended loss is more than \$250.

Sec. 3. NRS 225.083 is hereby amended to read as follows:

225.083 1. The Secretary of State shall prominently post the following notice at each office and each location on his or her Internet website at which documents are accepted for filing:

The Secretary of State is not responsible for the content, completeness or accuracy of any document filed in this office. Customers should periodically review the documents on file in this office to ensure that the documents pertaining to them are complete and accurate.

Pursuant to NRS 239.330, any person who knowingly offers any false or forged instrument for filing in this office is guilty of a category C 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 5 years and may be further punished by a fine of not more than \$10,000. Additionally, any person who knowingly offers any false or forged instrument for filing in this office may also be subject to civil liability.

Pursuant to section 1 of this act, any person who presents for filing in this office a lien against the real or personal property of a public officer, candidate for public office, public employee or participant in an official proceeding, or a member of the immediate family of a public officer, candidate for public office, public employee or participant, which is based on the performance of or failure to perform a duty relating to the office, employment or participation by the public officer, candidate for public office, public employee or participant if the person knows or has reason to know that the lien is forged or fraudulently altered, contains a false statement of material fact or is being filed in bad faith or for the purpose of harassing or defrauding any person is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and may be further punished by a fine of not more than \$150,000. The person may also be subject to civil liability.

2. The Secretary of State may adopt regulations prescribing procedures to prevent the filing of ~~[(false or forged)]~~ documents in his or her office ~~[(that are false, forged or fraudulently altered, contain a false statement of material fact or are being filed in bad faith or for the purpose of harassing or defrauding any person.)]~~

Sec. 4. NRS 225.084 is hereby amended to read as follows:

225.084 1. A person shall not willfully file, promote the filing of, or cause to be filed, or attempt or conspire to file, promote the filing of, or cause

to be filed, any record in the Office of the Secretary of State if the person has actual knowledge that the record:

- (a) Is forged or fraudulently altered;
- (b) Contains a false statement of material fact; or
- (c) Is being filed in bad faith or for the purpose of harassing or defrauding any person.

2. Any person who violates this section is liable in a civil action brought pursuant to this section for:

- (a) Actual damages caused by each separate violation of this section or \$10,000 for each separate violation of this section, whichever is greater;
- (b) All costs of bringing and maintaining the action, including investigative expenses and fees for expert witnesses;
- (c) Reasonable attorney's fees; and
- (d) Any punitive damages that the facts may warrant.

3. A civil action may be brought pursuant to this section by:

- (a) Any person who is damaged by a violation of this section, including, without limitation, any person who is damaged as the result of an action taken in reliance on a record filed in violation of this section; or

- (b) The Attorney General, in the name of the State of Nevada, if the matter is referred to the Attorney General by the Secretary of State and if the Attorney General, after due inquiry, determines that a civil action should be brought pursuant to this section. Any money recovered by the Attorney General pursuant to this paragraph, after deducting all costs and expenses incurred by the Attorney General and the Secretary of State to investigate and act upon the violation, must be deposited in the State General Fund.

4. For the purposes of this section, each filing of a single record that constitutes a violation of this section shall be deemed to be a separate violation.

5. The rights, remedies and penalties provided pursuant to this section are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 239.330 ~~[-]~~ or section 1 of this act.

6. The Secretary of State may adopt regulations prescribing procedures for correcting any record filed in violation of this section.

7. As used in this section, "record" means information that is:

- (a) Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and
- (b) Filed or offered for filing by a person pursuant to any provision of title 7 of NRS or Article 9 of the Uniform Commercial Code.

Sec. 5. NRS 281.405 is hereby amended to read as follows:

281.405 1. Any lien or other encumbrance which is filed or otherwise claimed against the real or personal property of a public officer ~~[-]~~, candidate for public office, public employee or participant in an official proceeding, or a member of the immediate family of a public officer,

candidate for public office, public employee or participant, which is based on the performance of or failure to perform a duty relating to the office , ~~{or}~~ employment or participation of the officer , ~~{or}~~ employee or participant is invalid unless the filing of the lien or encumbrance is authorized by a specific statute or by an order of a court of competent jurisdiction.

2. As used in this section ~~{- "lien"}~~ :

(a) *"Encumbrance" includes, without limitation, a lis pendens or other notice of the pendency of an action.*

(b) *"Immediate family" means persons who are related by blood, adoption or marriage, within the first degree of consanguinity or affinity.*

(c) *"Lien" means ~~{an encumbrance on}~~ a charge against or an interest in property which is used as security for the payment of a debt ~~{-}~~ or the performance of an obligation. The term includes, without limitation, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, a statutory lien and a security interest.*

(d) *"Participant in an official proceeding" includes, without limitation, a juror or witness in a judicial or administrative proceeding or a referee, arbitrator, mediator, appraiser, assessor or other person authorized by law to hear or determine any controversy or matter.*

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 197 shortens the minimum sentences required in the bill for second and subsequent offenses and for offenses that are part of a pattern of behavior and adds a "mediator" to the list of persons protected from the filing of false liens.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 229.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 410.

SUMMARY—Provides for the issuance of special license plates indicating support for Second Amendment rights. (BDR 43-713)

AN ACT relating to motor vehicles; providing for the issuance of special license plates indicating support for the rights guaranteed by the Second Amendment to the United States Constitution; imposing a fee for the issuance and renewal of such license plates; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides for the issuance of special license plates indicating support for the rights guaranteed by the Second Amendment to the United States Constitution. The fees generated by such special license plates that are in addition to all other applicable registration and license fees and governmental services taxes are required to be deposited with the State

Treasurer, who must, on a quarterly basis, distribute the fees to the Nevada Firearms Coalition or its successor for ~~programs and activities in support of the rights guaranteed by the Second Amendment~~ use solely to provide or pay for firearm training or firearm safety education. These special license plates must be approved by the Commission on Special License Plates and, after such approval, will not be issued until one of the 30 design slots for such special license plates becomes available. (NRS 482.367004, 482.367008, 482.36705) Sections 2-9 of this bill make conforming changes to various sections referring to such special license plates. This bill does not require, as a prerequisite to design, preparation and issuance, that such special license plates receive a minimum number of applications, but does require that a surety bond be posted with the Department of Motor Vehicles.

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

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

1. *Except as otherwise provided in subsection 2, the Department, in cooperation with the Nevada Firearms Coalition or its successor, shall design, prepare and issue license plates which indicate support for the rights guaranteed by the Second Amendment to the United States Constitution, using any colors that the Department deems appropriate.*

2. *The Department shall not design, prepare or issue the license plates described in subsection 1 unless:*

(a) The Commission on Special License Plates recommends to the Department that the Department approve the design, preparation and issuance of those plates as described in NRS 482.367004; and

(b) A surety bond in the amount of \$5,000 is posted with the Department.

3. *If the conditions set forth in subsection 2 are met, the Department shall issue license plates which indicate support for the rights guaranteed by the Second Amendment to the United States Constitution for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with license plates which indicate support for the rights guaranteed by the Second Amendment to the United States Constitution if that person pays the fees for the personalized prestige license plates in addition to the fees for the license plates which indicate support for the rights guaranteed by the Second Amendment to the United States Constitution pursuant to subsections 4 and 5.*

4. *The fee for license plates which indicate support for the rights guaranteed by the Second Amendment to the United States Constitution is \$35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of \$10.*

5. In addition to all other applicable registration and license fees and governmental services taxes and the fee prescribed pursuant to subsection 4, a person who requests a set of license plates which indicate support for the rights guaranteed by the Second Amendment to the United States Constitution must pay for the initial issuance of the plates an additional fee of \$25 and for each renewal of the plates an additional fee of \$20, to be deposited in accordance with subsection 6.

6. Except as otherwise provided in NRS 482.38279, the Department shall deposit the fees collected pursuant to subsection 5 with the State Treasurer for credit to the State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees deposited pursuant to this subsection to the Nevada Firearms Coalition or its successor for ~~its programs and activities in support of the rights guaranteed by the Second Amendment to the United States Constitution.~~ use only to provide or pay for firearm training or firearm safety education.

7. The Department must promptly release the surety bond that is required to be posted pursuant to paragraph (b) of subsection 2:

(a) If the Department, based upon the recommendation of the Commission on Special License Plates, determines not to issue the special license plate; or

(b) If it is determined that at least 1,000 special license plates have been issued pursuant to the assessment of the viability of the design of the special license plate conducted pursuant to NRS 482.367008.

8. The provisions of paragraph (a) of subsection 1 of NRS 482.36705 do not apply to license plates described in this section.

9. If, during a registration period, the holder of license plates issued pursuant to the provisions of this section disposes of the vehicle to which the plates are affixed, the holder shall:

(a) Retain the plates and affix them to another vehicle that meets the requirements of this section if the holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or

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

Sec. 2. NRS 482.2065 is hereby amended to read as follows:

482.2065 1. A trailer may be registered for a 3-year period as provided in this section.

2. A person who registers a trailer for a 3-year period must pay upon registration all fees and taxes that would be due during the 3-year period if he or she registered the trailer for 1 year and renewed that registration for 2 consecutive years immediately thereafter, including, without limitation:

(a) Registration fees pursuant to NRS 482.480 and 482.483.

(b) A fee for each license plate issued pursuant to NRS 482.268.

(c) Fees for the initial issuance and renewal of a special license plate pursuant to NRS 482.265, if applicable.

(d) Fees for the initial issuance and renewal of a personalized prestige license plate pursuant to NRS 482.367, if applicable.

(e) Additional fees for the initial issuance and renewal of a special license plate issued pursuant to NRS 482.3667 to 482.3823, inclusive, *and section 1 of this act*, which are imposed to generate financial support for a particular cause or charitable organization, if applicable.

(f) Governmental services taxes imposed pursuant to chapter 371 of NRS, as provided in NRS 482.260.

(g) The applicable taxes imposed pursuant to chapters 372, 374, 377 and 377A of NRS.

3. As used in this section, the term "trailer" does not include a full trailer or semitrailer that is registered pursuant to subsection 3 of NRS 482.483.

Sec. 3. NRS 482.216 is hereby amended to read as follows:

482.216 1. Upon the request of a new vehicle dealer, the Department may authorize the new vehicle dealer to:

(a) Accept applications for the registration of the new motor vehicles he or she sells and the related fees and taxes;

(b) Issue certificates of registration to applicants who satisfy the requirements of this chapter; and

(c) Accept applications for the transfer of registration pursuant to NRS 482.399 if the applicant purchased from the new vehicle dealer a new vehicle to which the registration is to be transferred.

2. A new vehicle dealer who is authorized to issue certificates of registration pursuant to subsection 1 shall:

(a) Transmit the applications received to the Department within the period prescribed by the Department;

(b) Transmit the fees collected from the applicants and properly account for them within the period prescribed by the Department;

(c) Comply with the regulations adopted pursuant to subsection 4; and

(d) Bear any cost of equipment which is necessary to issue certificates of registration, including any computer hardware or software.

3. A new vehicle dealer who is authorized to issue certificates of registration pursuant to subsection 1 shall not:

(a) Charge any additional fee for the performance of those services;

(b) Receive compensation from the Department for the performance of those services;

(c) Accept applications for the renewal of registration of a motor vehicle; or

(d) Accept an application for the registration of a motor vehicle if the applicant wishes to:

(1) Obtain special license plates pursuant to NRS 482.3667 to 482.3823, inclusive ~~and~~, *and section 1 of this act*; or

(2) Claim the exemption from the governmental services tax provided pursuant to NRS 361.1565 to veterans and their relations.

4. The Director shall adopt such regulations as are necessary to carry out the provisions of this section. The regulations adopted pursuant to this subsection must provide for:

(a) The expedient and secure issuance of license plates and decals by the Department; and

(b) The withdrawal of the authority granted to a new vehicle dealer pursuant to subsection 1 if that dealer fails to comply with the regulations adopted by the Department.

Sec. 4. NRS 482.2703 is hereby amended to read as follows:

482.2703 1. The Director may order the preparation of sample license plates which must be of the same design and size as regular license plates or license plates issued pursuant to NRS 482.384. The Director shall ensure that:

(a) Each license plate issued pursuant to this subsection, regardless of its design, is inscribed with the word SAMPLE and an identical designation which consists of the same group of three numerals followed by the same group of three letters; and

(b) The designation of numerals and letters assigned pursuant to paragraph (a) is not assigned to a vehicle registered pursuant to this chapter or chapter 706 of NRS.

2. The Director may order the preparation of sample license plates which must be of the same design and size as any of the special license plates issued pursuant to NRS 482.3667 to 482.3823, inclusive ~~[-]~~, *and section 1 of this act*. The Director shall ensure that:

(a) Each license plate issued pursuant to this subsection, regardless of its design, is inscribed with the word SAMPLE and the number zero in the location where any other numerals would normally be displayed on a license plate of that design; and

(b) The number assigned pursuant to paragraph (a) is not assigned to a vehicle registered pursuant to this chapter or chapter 706 of NRS.

3. The Director may establish a fee for the issuance of sample license plates of not more than \$15 for each license plate.

4. A decal issued pursuant to NRS 482.271 may be displayed on a sample license plate issued pursuant to this section.

5. All money collected from the issuance of sample license plates must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

6. A person shall not affix a sample license plate issued pursuant to this section to a vehicle. A person who violates the provisions of this subsection is guilty of a misdemeanor.

Sec. 5. NRS 482.274 is hereby amended to read as follows:

482.274 1. The Director shall order the preparation of vehicle license plates for trailers in the same manner provided for motor vehicles in NRS 482.270, except that a vehicle license plate prepared for a full trailer or semitrailer that is registered pursuant to subsection 3 of NRS 482.483 is not

required to have displayed upon it the month and year the registration expires.

2. The Director shall order preparation of two sizes of vehicle license plates for trailers. The smaller plates may be used for trailers with a gross vehicle weight of less than 1,000 pounds.

3. The Director shall determine the registration numbers assigned to trailers.

4. Any license plates issued for a trailer before July 1, 1975, bearing a different designation from that provided for in this section, are valid during the period for which such plates were issued.

5. The Department shall not issue for a full trailer or semitrailer that is registered pursuant to subsection 3 of NRS 482.483 a special license plate available pursuant to NRS 482.3667 to 482.3823, inclusive ~~[]~~, *and section 1 of this act*.

Sec. 6. NRS 482.367008 is hereby amended to read as follows:

482.367008 1. As used in this section, "special license plate" means:

(a) A license plate that the Department has designed and prepared pursuant to NRS 482.367002 in accordance with the system of application and petition described in that section;

(b) A license plate approved by the Legislature that the Department has designed and prepared pursuant to NRS 482.3747, 482.37903, 482.37905, 482.37917, 482.379175, 482.37918, 482.37919, 482.3792, 482.3793, 482.37933, 482.37934, 482.37935, 482.379355, 482.379365, 482.37937, 482.379375, 482.37938 or 482.37945 ~~[]~~ *or section 1 of this act*; and

(c) Except for a license plate that is issued pursuant to NRS 482.3757, 482.3785, 482.3787 or 482.37901, a license plate that is approved by the Legislature after July 1, 2005.

2. Notwithstanding any other provision of law to the contrary, and except as otherwise provided in subsection 3, the Department shall not, at any one time, issue more than 30 separate designs of special license plates. Whenever the total number of separate designs of special license plates issued by the Department at any one time is less than 30, the Department shall issue a number of additional designs of special license plates that have been authorized by an act of the Legislature or the application for which has been recommended by the Commission on Special License Plates to be approved by the Department pursuant to subsection 5 of NRS 482.367004, not to exceed a total of 30 designs issued by the Department at any one time. Such additional designs must be issued by the Department in accordance with the chronological order of their authorization or approval by the Department.

3. In addition to the special license plates described in subsection 2, the Department may issue not more than five separate designs of special license plates in excess of the limit set forth in that subsection. To qualify for issuance pursuant to this subsection:

(a) The Commission on Special License Plates must have recommended to the Department that the Department approve the design, preparation and

issuance of the special plates as described in paragraphs (a) and (b) of subsection 5 of NRS 482.367004; and

(b) The special license plates must have been applied for, designed, prepared and issued pursuant to NRS 482.367002, except that:

(1) The application for the special license plates must be accompanied by a surety bond posted with the Department in the amount of \$20,000; and

(2) Pursuant to the assessment of the viability of the design of the special license plates that is conducted pursuant to this section, it is determined that at least 3,000 special license plates have been issued.

4. Except as otherwise provided in this subsection, on October 1 of each year the Department shall assess the viability of each separate design of special license plate that the Department is currently issuing by determining the total number of validly registered motor vehicles to which that design of special license plate is affixed. The Department shall not determine the total number of validly registered motor vehicles to which a particular design of special license plate is affixed if:

(a) The particular design of special license plate was designed and prepared by the Department pursuant to NRS 482.367002; and

(b) On October 1, that particular design of special license plate has been available to be issued for less than 12 months.

5. If, on October 1, the total number of validly registered motor vehicles to which a particular design of special license plate is affixed is:

(a) In the case of special license plates not described in subsection 3, less than 1,000; or

(b) In the case of special license plates described in subsection 3, less than 3,000,

↪ the Director shall provide notice of that fact in the manner described in subsection 6.

6. The notice required pursuant to subsection 5 must be provided:

(a) If the special license plate generates financial support for a cause or charitable organization, to that cause or charitable organization.

(b) If the special license plate does not generate financial support for a cause or charitable organization, to an entity which is involved in promoting the activity, place or other matter that is depicted on the plate.

7. If, on December 31 of the same year in which notice was provided pursuant to subsections 5 and 6, the total number of validly registered motor vehicles to which a particular design of special license plate is affixed is:

(a) In the case of special license plates not described in subsection 3, less than 1,000; or

(b) In the case of special license plates described in subsection 3, less than 3,000,

↪ the Director shall, notwithstanding any other provision of law to the contrary, issue an order providing that the Department will no longer issue that particular design of special license plate. Such an order does not require existing holders of that particular design of special license plate to surrender

their plates to the Department and does not prohibit those holders from renewing those plates.

Sec. 7. NRS 482.3824 is hereby amended to read as follows:

482.3824 1. Except as otherwise provided in NRS 482.38279, with respect to any special license plate that is issued pursuant to NRS 482.3667 to 482.3823, inclusive, *and section 1 of this act*, and for which additional fees are imposed for the issuance of the special license plate to generate financial support for a charitable organization:

(a) The Director shall, at the request of the charitable organization that is benefited by the particular special license plate:

(1) Order the design and preparation of souvenir license plates, the design of which must be substantially similar to the particular special license plate; and

(2) Issue such souvenir license plates, for a fee established pursuant to NRS 482.3825, only to the charitable organization that is benefited by the particular special license plate. The charitable organization may resell such souvenir license plates at a price determined by the charitable organization.

(b) The Department may, except as otherwise provided in this paragraph and after the particular special license plate is approved for issuance, issue the special license plate for a trailer, motorcycle or other type of vehicle that is not a passenger car or light commercial vehicle, excluding vehicles required to be registered with the Department pursuant to NRS 706.801 to 706.861, inclusive, and full trailers or semitrailers registered pursuant to subsection 3 of NRS 482.483, upon application by a person who is entitled to license plates pursuant to NRS 482.265 or 482.272 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter or chapter 486 of NRS. The Department may not issue a special license plate for such other types of vehicles if the Department determines that the design or manufacture of the plate for those other types of vehicles would not be feasible. In addition, if the Department incurs additional costs to manufacture a special license plate for such other types of vehicles, including, without limitation, costs associated with the purchase, manufacture or modification of dies or other equipment necessary to manufacture the special license plate for such other types of vehicles, those additional costs must be paid from private sources without any expense to the State of Nevada.

2. If, as authorized pursuant to paragraph (b) of subsection 1, the Department issues a special license plate for a trailer, motorcycle or other type of vehicle that is not a passenger car or light commercial vehicle, the Department shall charge and collect for the issuance and renewal of such a plate the same fees that the Department would charge and collect if the other type of vehicle was a passenger car or light commercial vehicle. As used in this subsection, "fees" does not include any applicable registration or license fees or governmental services taxes.

3. As used in this section:

(a) "Additional fees" has the meaning ascribed to it in NRS 482.38273.

(b) "Charitable organization" means a particular cause, charity or other entity that receives money from the imposition of additional fees in connection with the issuance of a special license plate pursuant to NRS 482.3667 to 482.3823, inclusive ~~[-]~~, *and section 1 of this act*. The term includes the successor, if any, of a charitable organization.

Sec. 8. NRS 482.399 is hereby amended to read as follows:

482.399 1. Upon the transfer of the ownership of or interest in any vehicle by any holder of a valid registration, or upon destruction of the vehicle, the registration expires.

2. Except as otherwise provided in subsection 3 of NRS 482.483, the holder of the original registration may transfer the registration to another vehicle to be registered by the holder and use the same regular license plate or plates or special license plate or plates issued pursuant to NRS 482.3667 to 482.3823, inclusive, *and section 1 of this act* or 482.384, on the vehicle from which the registration is being transferred, if the license plate or plates are appropriate for the second vehicle, upon filing an application for transfer of registration and upon paying the transfer registration fee and the excess, if any, of the registration fee and governmental services tax on the vehicle to which the registration is transferred over the total registration fee and governmental services tax paid on all vehicles from which he or she is transferring ownership or interest. Except as otherwise provided in NRS 482.294, an application for transfer of registration must be made in person, if practicable, to any office or agent of the Department or to a registered dealer, and the license plate or plates may not be used upon a second vehicle until registration of that vehicle is complete.

3. In computing the governmental services tax, the Department, its agent or the registered dealer shall credit the portion of the tax paid on the first vehicle attributable to the remainder of the current registration period or calendar year on a pro rata monthly basis against the tax due on the second vehicle or on any other vehicle of which the person is the registered owner. If any person transfers ownership or interest in two or more vehicles, the Department or the registered dealer shall credit the portion of the tax paid on all of the vehicles attributable to the remainder of the current registration period or calendar year on a pro rata monthly basis against the tax due on the vehicle to which the registration is transferred or on any other vehicle of which the person is the registered owner. The certificates of registration and unused license plates of the vehicles from which a person transfers ownership or interest must be submitted before credit is given against the tax due on the vehicle to which the registration is transferred or on any other vehicle of which the person is the registered owner.

4. In computing the registration fee, the Department or its agent or the registered dealer shall credit the portion of the registration fee paid on each vehicle attributable to the remainder of the current calendar year or

registration period on a pro rata basis against the registration fee due on the vehicle to which registration is transferred.

5. If the amount owed on the registration fee or governmental services tax on the vehicle to which registration is transferred is less than the credit on the total registration fee or governmental services tax paid on all vehicles from which a person transfers ownership or interest, no refund may be allowed by the Department.

6. If the license plate or plates are not appropriate for the second vehicle, the plate or plates must be surrendered to the Department or registered dealer and an appropriate plate or plates must be issued by the Department. The Department shall not reissue the surrendered plate or plates until the next succeeding licensing period.

7. If application for transfer of registration is not made within 60 days after the destruction or transfer of ownership of or interest in any vehicle, the license plate or plates must be surrendered to the Department on or before the 60th day for cancellation of the registration.

8. Except as otherwise provided in subsection 2 of NRS 371.040 and subsection 7 of NRS 482.260, if a person cancels his or her registration and surrenders to the Department the license plates for a vehicle, the Department shall, in accordance with the provisions of subsection 9, issue to the person a refund of the portion of the registration fee and governmental services tax paid on the vehicle attributable to the remainder of the current calendar year or registration period on a pro rata basis.

9. The Department shall issue a refund pursuant to subsection 8 only if the request for a refund is made at the time the registration is cancelled and the license plates are surrendered, the person requesting the refund is a resident of Nevada, the amount eligible for refund exceeds \$100, and evidence satisfactory to the Department is submitted that reasonably proves the existence of extenuating circumstances. For the purposes of this subsection, the term "extenuating circumstances" means circumstances wherein:

(a) The person has recently relinquished his or her driver's license and has sold or otherwise disposed of his or her vehicle.

(b) The vehicle has been determined to be inoperable and the person does not transfer the registration to a different vehicle.

(c) The owner of the vehicle is seriously ill or has died and the guardians or survivors have sold or otherwise disposed of the vehicle.

(d) Any other event occurs which the Department, by regulation, has defined to constitute an "extenuating circumstance" for the purposes of this subsection.

Sec. 9. NRS 482.500 is hereby amended to read as follows:

482.500 1. Except as otherwise provided in subsection 2 or 3, whenever upon application any duplicate or substitute certificate of registration, indicator, decal or number plate is issued, the following fees must be paid:

For a certificate of registration.....	\$5.00
For every substitute number plate or set of plates.....	5.00
For every duplicate number plate or set of plates	10.00
For every decal displaying a county name50
For every other indicator, decal, license plate sticker or tab	5.00

2. The following fees must be paid for any replacement plate or set of plates issued for the following special license plates:

(a) For any special plate issued pursuant to NRS 482.3667, 482.367002, 482.3672, 482.3675, 482.370 to 482.376, inclusive, *and section 1 of this act* or 482.379 to 482.3818, inclusive, a fee of \$10.

(b) For any special plate issued pursuant to NRS 482.368, 482.3765, 482.377 or 482.378, a fee of \$5.

(c) Except as otherwise provided in paragraph (a) of subsection 1 of NRS 482.3824, for any souvenir license plate issued pursuant to NRS 482.3825 or sample license plate issued pursuant to NRS 482.2703, a fee equal to that established by the Director for the issuance of those plates.

3. A fee must not be charged for a duplicate or substitute of a decal issued pursuant to NRS 482.37635.

4. The fees which are paid for duplicate number plates and decals displaying county names must be deposited with the State Treasurer for credit to the Motor Vehicle Fund and allocated to the Department to defray the costs of duplicating the plates and manufacturing the decals.

Senator Gustavson moved the adoption of the amendment.

Remarks by Senator Gustavson.

Amendment No. 410 to Senate Bill No. 229 clarifies that the fees generated by the issuance of special Second Amendment license plates must be used by the Nevada Firearms Coalition or its successor only to provide or pay for firearm training or firearm safety education.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 242.

Bill read second time.

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

Amendment No. 201.

SUMMARY—Requires payday lenders to use best practices. (BDR 52-953)

AN ACT relating to payday lending; enacting the Payday Lender Best Practices Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commissioner of Financial Institutions to license and regulate persons providing check-cashing services, deferred deposit loan services, high-interest loan services and title loan services. (Chapter 604A of NRS) This bill enacts the Payday Lender Best Practices Act, which adopts certain provisions of the Community Financial Services

Association of America's Best Practices for the Payday Loan Industry ~~and~~ and makes those provisions applicable to persons providing deferred deposit loan services, high-interest loan services and title loan services.

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

Section 1. Chapter 604A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *The provisions of sections 2 to 13, inclusive, of this act may be cited as the Payday Lender Best Practices Act.*

Sec. 3. 1. In addition to the requirements of any other provision of this chapter, or any applicable law or regulation of this State or federal law or regulation, a licensee who has been issued one or more licenses to operate a deferred deposit loan service, high-interest loan service or title loan service pursuant to this chapter shall comply with the provisions of sections 2 to 13, inclusive, of this act.

2. The provisions of sections 2 to 13, inclusive, of this act do not apply to the operation of a check-cashing service licensed pursuant to this chapter.

Sec. 4. 1. A licensee who has been issued one or more licenses to operate a deferred deposit loan service, high-interest loan service or title loan service pursuant to this chapter shall comply with the disclosure requirements of NRS 604A.405 and the Federal Truth in Lending Act. A loan agreement between such a licensee and a customer must fully ~~outline~~ disclose the terms of the transaction, including, without limitation, the amount of any fees charged for providing ~~check-cashing services,~~ deferred deposit loan services, high-interest loan services or title loan services represented in both a dollar amount and as an annual percentage rate.

2. A licensee described in subsection 1 shall ~~make~~ prominently disclose in the loan agreement all fees charged for providing ~~check-cashing services,~~ deferred deposit loan services, high-interest loan services or title loan services ~~clearly visible~~ to a customer before he or she enters into the transaction process.

Sec. 5. A licensee who has been issued one or more licenses to operate a deferred deposit loan service, high-interest loan service or title loan service pursuant to this chapter shall not charge a fee for providing ~~check-cashing services,~~ deferred deposit loan services, high-interest loan services or title loan services that is prohibited by an applicable law or regulation of this State or federal law or regulation.

Sec. 6. A licensee who has been issued one or more licenses to operate a deferred deposit loan service, high-interest loan service or title loan service pursuant to this chapter shall comply with the provisions of subsection 6 of NRS 604A.440 prohibiting advertisements that are false, misleading or deceptive ~~and~~ with regard to the rates, terms or conditions for loans.

Sec. 7. A licensee who has been issued one or more licenses to operate a deferred deposit loan service, high-interest loan service or title loan service pursuant to this chapter shall ~~implement procedures to inform consumers of~~

~~the responsible use of check cashing services, deferred deposit loan services, high interest loan services or title loan services. These procedures shall include, without limitation, the placement of a notice~~ place the following notices on ~~fall~~ marketing materials and television, print, radio and Internet advertising ~~that:~~ when space or time reasonably permits:

1. ~~Such services~~ Deferred deposit loans, high-interest loans and title loans should be used for short-term financial needs only and not as a long-term financial solution; and

2. Customers with credit difficulties should seek credit counseling before entering into any loan transaction.

Sec. 8. A licensee who has been issued one or more licenses to operate a deferred deposit loan service, high-interest loan service or title loan service pursuant to this chapter shall not allow a customer to extend, rollover, renew, refinance or consolidate any deferred deposit loan ~~or~~ or high-interest loan ~~for title loan~~ for a period longer than the period set forth in subsection 3 of NRS 604A.408.

Sec. 9. A licensee who has been issued one or more licenses to operate a deferred deposit loan service, high-interest loan service or title loan service pursuant to this chapter shall provide each customer with the ability to rescind any deferred deposit loan, high-interest loan or title loan in accordance with the provisions of NRS 604A.460.

Sec. 10. A licensee who has been issued one or more licenses to operate a deferred deposit loan service, high-interest loan service or title loan service pursuant to this chapter must collect past due accounts in a professional, fair and lawful manner in accordance with the provisions of NRS 604A.440 and applicable provisions of the Federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq., as amended. ~~FA~~ Such a licensee shall not use unlawful threats, intimidation or harassment to collect unpaid accounts.

Sec. 11. A licensee who has been issued one or more licenses to operate a deferred deposit loan service, high-interest loan service or title loan service pursuant to this chapter shall report to the Commissioner any person the licensee knows, or reasonably should know, is in violation of the provisions of this chapter within 30 days after the date the licensee knows, or reasonably should know, of the violation.

Sec. 12. A licensee who has been issued one or more licenses to operate a deferred deposit loan service, high-interest loan service or title loan service pursuant to this chapter shall provide to any customer who is unable to repay a deferred deposit loan, high-interest loan or title loan in accordance with the loan agreement between the licensee and the customer the opportunity to enter into a repayment plan pursuant to NRS 604A.475. ~~FA~~ Such a licensee shall disclose the availability of such a repayment plan to any customer who is unable to repay a loan.

Sec. 13. A licensee that offers ~~check cashing services,~~ deferred deposit loan services, high-interest loan services or title loan services through an

Internet website ~~shall~~ must be licensed in each state, as applicable, where any of its customers reside and shall comply with any state or federal law or regulation applicable to such jurisdiction.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Amendment No. 201 makes six changes to Senate Bill No. 242. The amendment: 1) removes check cashing services from the definition of a licensee; 2) clarifies a loan agreement between a licensee and customer must fully disclose the terms of the transaction. A licensee must prominently disclose in the loan agreement all fees charged for providing its services; 3) prohibits a licensee from advertising in a false, misleading or deceptive manner with regard to the rates, terms or conditions for loans; 4) requires a licensee to provide notice to inform consumers about the intended use of the payday advance service; 5) deletes a "title loan" from limitations on the original term of deferred deposit loans and high-interest loans; and 6) clarifies that the applicable federal Fair Debt Collection Practices Act should guide a licensee's practice in this area.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 246.

Bill read second time.

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

Amendment No. 306.

SUMMARY—Revises provisions governing ~~craft distilleries;~~ alcoholic beverages. (BDR 52-631)

AN ACT relating to ~~craft distilleries;~~ alcoholic beverages; authorizing a person who suffers certain injuries relating to alcoholic beverages to bring a civil action for the recovery of damages and attorney's fees and costs; increasing the quantity of spirits a craft distillery may export to another state; ~~allowing a craft distillery to sell or serve samples of its spirits at a location other than the craft distillery;~~ increasing the quantity of spirits that a craft distillery may serve samples of or sell at retail for consumption off the premises; allowing a craft distillery to donate and transport spirits for charitable purposes under certain circumstances; allowing a craft distillery to transfer in bulk certain spirits to a supplier; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a person, subject to certain conditions, to operate a craft distillery and to sell and transport not more than 10,000 cases of spirits to a wholesale dealer of liquor within this State and to manufacture for exportation to another state not more than 20,000 cases of spirits. A craft distillery may also serve samples of and sell the spirits manufactured at the craft distillery on the premises of the craft distillery. Such samples must not exceed 2 ounces per person, per day, and such sales must not exceed 2 bottles of spirits per person, per month. (NRS 597.235) ~~(This)~~ Section 1.7 of this bill increases the quantity of spirits which a craft manufacturer may manufacture for export to another state to ~~60,000~~ 40,000 cases of spirits. ~~(This bill)~~

Section 1.7 also allows a craft distillery to serve samples, not to exceed 4 ounces per person, per day, of ~~for sell~~ the spirits manufactured at the craft distillery, ~~at one other location in addition to the premises of the craft distillery itself,~~ and increases the quantity of spirits that may be sold to a person at retail for off-premises consumption from 2 bottles per month to 1 case of spirits per ~~day. Finally, this bill~~ month, not to exceed 6 cases in a year. Section 1.7 authorizes a craft distillery to donate and transport spirits manufactured at the craft distillery for charitable or nonprofit purposes or to transfer certain bulk spirits to another supplier. Such a charitable donation or bulk transfer is not included in the 10,000 cases per year that a craft distillery is permitted to sell and transport within this State. Section 1 of this bill creates a civil cause of action for a person damaged by certain violations of existing law relating to the manufacturing, importing, wholesaling and retailing of alcoholic beverages.

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. A person who has suffered injury, including, without limitation, economic damage, as the proximate result of a violation of the provisions of this section and NRS 597.190 to 597.245, inclusive, may bring a civil action against the person who committed the violation to recover:

(a) For the first violation, \$100 plus the injured person's actual damages, attorney's fees and costs, if any.

(b) For the second violation, \$250 plus the injured person's actual damages, attorney's fees and costs, if any.

(c) For the third and any subsequent violation, \$500 plus the injured person's actual damages, attorney's fees and costs, if any, and any punitive damages that the facts may warrant.

2. Any person, including, without limitation, a director, officer, agent or employee of the person, who knowingly violates or knowingly aids or assists in the violation of any provision of this section and NRS 597.190 to 597.245, inclusive, is liable under this section.

3. Except as otherwise provided in NRS 597.157, 597.170 and 597.260, and in addition to any legal action brought pursuant to NRS 597.262, the provisions of this section do not preclude a person from seeking any other legal remedy available.

Sec. 1.3. NRS 597.200 is hereby amended to read as follows:

597.200 As used in NRS 597.190 to 597.250, inclusive, and section 1 of this act, unless the context otherwise requires:

1. "Alcoholic beverage" means any malt beverage or spirituous, vinous or malt liquor which contains 1 percent or more ethyl alcohol by volume.

2. "Brew pub" means an establishment which manufactures malt beverages and sells those malt beverages at retail pursuant to the provisions of NRS 597.230.

3. "Craft distillery" means an establishment which:

(a) Manufactures distilled spirits from agricultural raw materials through distillation; and

(b) Is authorized to sell those distilled spirits pursuant to the provisions of this chapter.

4. "Distillation" means the process of producing or purifying spirituous liquor by successive evaporation and condensation.

5. "Engage in" includes participation in a business as an owner or partner, or through a subsidiary, affiliate, ownership equity or in any other manner.

6. "Instructional wine-making facility" means an instructional wine-making facility operated pursuant to NRS 597.245.

7. "Legal age" means the age at which a person is legally permitted to purchase an alcoholic beverage pursuant to NRS 202.020.

8. "Malt beverage" means beer, ale, porter, stout and other similar fermented beverages of any name or description, brewed or produced from malt, wholly or in part.

9. "Supplier" has the meaning ascribed to it in NRS 597.140.

10. "Wine" has the meaning ascribed to it in NRS 369.140.

~~[Section 1.]~~ Sec. 1.7. NRS 597.235 is hereby amended to read as follows:

597.235 1. A person may operate a craft distillery if the person:

(a) Obtains a license for the facility pursuant to chapter 369 of NRS;

(b) Complies with the requirements of this chapter; and

(c) Complies with any other applicable governmental requirements.

2. A person who operates a craft distillery pursuant to this section may:

(a) In addition to manufacturing spirits from agricultural raw materials through distillation, blend, age, store and bottle the spirits so manufactured. The person operating the craft distillery shall ensure that none of the spirits manufactured at the craft distillery are derived from neutral or distilled spirits manufactured by another manufacturer.

(b) ~~Not~~ Except as otherwise provided in paragraphs (f) and (g), in any calendar year, sell and transport in Nevada not more than a combined total of 10,000 cases of spirits at all the craft distilleries the person operates to a person who holds a license to engage in business as a wholesale dealer of liquor pursuant to chapter 369 of NRS.

(c) In any calendar year, manufacture for exportation ~~export~~ to another state, not more than a combined total of ~~{20,000-60,000}~~ 40,000 cases of spirits at all the craft distilleries the person operates.

(d) On the premises of the craft distillery ~~and at one other location,~~ serve samples of the spirits manufactured at the craft distillery. Any such samples must not exceed, per person, per day, {2} 4 fluid ounces in volume.

(e) On the premises of the craft distillery ~~and at one other location,~~ sell the spirits manufactured at the craft distillery at retail for consumption on or off the premises. Any such spirits sold at retail for off-premises consumption

must not exceed, per person, per month, ~~[2 bottles day]~~ 1 case of spirits ~~[1]~~ and not exceed, per person, per year, 6 cases of spirits. Spirits purchased on the premises of a craft distillery ~~for its one other location~~ must not be resold by the purchaser or any retail liquor store.

(f) *Donate for charitable or nonprofit purposes and transport neutral or distilled spirits manufactured at the craft distillery in accordance with the terms and conditions of a special permit for the transportation of the neutral or distilled spirits obtained from the Department of Taxation pursuant to subsection 4 of NRS 369.450.*

(g) *Transfer in bulk neutral or distilled spirits manufactured at the craft distillery to a supplier. Any such transfer:*

(1) *Is taxable only when the neutral or distilled spirits are rectified and bottled in original packages for sale within this State; and*

(2) *Is not a sale for the purposes of paragraph (b) ~~[1]~~ or manufacturing for exportation for the purposes of paragraph (c).*

3. As used in this section:

(a) ~~["Bottle"]~~ "Case of spirits" means ~~[a bottle]~~ 12 bottles, each containing 750 milliliters of distilled spirits.

(b) ~~["Case of spirits" means 12 bottles of spirits.]~~ "Supplier" has the meaning ascribed to it in NRS 597.140.

Sec. 2. This act becomes effective upon passage and approval.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Amendment No. 306 makes four changes to Senate Bill No. 246: 1) increases the quantity of spirits that may be manufactured for exportation to 40,000 cases; 2) allows a craft distillery to serve samples not to exceed four fluid ounces in volume, per person, per day; 3) allows a craft distillery to sell at retail for off premises consumption one case of spirits per month, not to exceed six cases of spirits per person, per year; and 4) authorizes a person who suffers certain injuries relating to alcoholic beverages to bring a civil action for the recovery of damages and attorney's fees and costs.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 264.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 400.

SUMMARY—Exempts spendthrift trusts from the application of the periods of limitation set forth in the Uniform Fraudulent Transfer Act. (BDR 10-780)

AN ACT relating to fraudulent conveyances; clarifying that the ~~[provisions of]~~ periods of limitation set forth in the Uniform Fraudulent Transfer Act do not apply to spendthrift trusts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Uniform Fraudulent Transfer Act, which sets forth various provisions relating to the fraudulent transfer of property by a debtor to avoid an obligation or creditor's claim. (Chapter 112 of NRS) Those provisions include the periods of limitation within which various claims for relief with respect to a fraudulent transfer must be brought. Existing law also establishes the Spendthrift Trust Act of Nevada, which sets forth various provisions relating to the creation of a spendthrift trust. (Chapter 166 of NRS) This bill clarifies that the ~~[provisions of]~~ periods of limitation set forth in the Uniform Fraudulent Transfer Act do not apply to any [transfers] claim for relief with respect to a transfer of property made to a spendthrift trust pursuant to the Spendthrift Trust Act of Nevada.

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

Section 1. ~~[Chapter 112 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~The provisions of this chapter do not apply to any transfer made to a spendthrift trust pursuant to chapter 166 of NRS.] (Deleted by amendment.)~~

Sec. 2. NRS 112.230 is hereby amended to read as follows:

112.230 ~~[Except as otherwise provided in NRS 166.170, a]~~

1. A claim for relief with respect to a fraudulent transfer or obligation under this chapter is extinguished unless action is brought:

~~[1.]~~ (a) Under paragraph (a) of subsection 1 of NRS 112.180, within 4 years after the transfer was made or the obligation was incurred or, if later, within 1 year after the transfer or obligation was or could reasonably have been discovered by the claimant;

~~[2.]~~ (b) Under paragraph (b) of subsection 1 of NRS 112.180 or subsection 1 of NRS 112.190, within 4 years after the transfer was made or the obligation was incurred; or

~~[3.]~~ (c) Under subsection 2 of NRS 112.190, within 1 year after the transfer was made or the obligation was incurred.

2. This section does not apply to a claim for relief with respect to a transfer of property to a spendthrift trust subject to chapter 166 of NRS.

Sec. 3. ~~[NRS 166.170 is hereby amended to read as follows:~~

~~166.170 1. A person may not bring an action with respect to a transfer of property to a spendthrift trust:~~

~~(a) If the person is a creditor when the transfer is made, unless the action is commenced within:~~

~~(1) Two years after the transfer is made; or~~

~~(2) Six months after the person discovers or reasonably should have discovered the transfer,~~

~~whichever is later.~~

~~(b) If the person becomes a creditor after the transfer is made, unless the action is commenced within 2 years after the transfer is made.~~

~~2. A person shall be deemed to have discovered a transfer at the time a public record is made of the transfer, including, without limitation, the~~

~~conveyance of real property that is recorded in the office of the county recorder of the county in which the property is located or the filing of a financing statement pursuant to chapter 104 of NRS.~~

~~3. A creditor may not bring an action with respect to transfer of property to a spendthrift trust unless a creditor can prove by clear and convincing evidence that the transfer of property [was a fraudulent transfer pursuant to chapter 112 of NRS or that the transfer] violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that creditor. In the absence of such clear and convincing proof, the property transferred is not subject to the claims of the creditor. Proof by one creditor that a transfer of property was [fraudulent or] wrongful does not constitute proof as to any other creditor, and proof of a [fraudulent or] wrongful transfer of property as to one creditor [shall] does not invalidate any other transfer of property.~~

~~4. If property transferred to a spendthrift trust is conveyed to the settlor or to a beneficiary for the purpose of obtaining a loan secured by a mortgage or deed of trust on the property and then reconveyed to the trust, for the purpose of subsection 1, the transfer is disregarded and the reconveyance relates back to the date the property was originally transferred to the trust. The mortgage or deed of trust on the property shall be enforceable against the trust.~~

~~5. A person may not bring a claim against an adviser to the settlor or trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the adviser acted in violation of the laws of this State, knowingly and in bad faith, and the adviser's actions directly caused the damages suffered by the person.~~

~~6. A person other than a beneficiary or settlor may not bring a claim against a trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the trustee acted in violation of the laws of this State, knowingly and in bad faith, and the trustee's actions directly caused the damages suffered by the person. As used in this subsection, "trustee" includes a cotrustee, if any, and a predecessor trustee.~~

~~7. If more than one transfer is made to a spendthrift trust:~~

~~(a) The subsequent transfer to the spendthrift trust must be disregarded for the purpose of determining whether a person may bring an action pursuant to subsection 1 with respect to a prior transfer to the spendthrift trust; and~~

~~(b) Any distribution to a beneficiary from the spendthrift trust shall be deemed to have been made from the most recent transfer made to the spendthrift trust.~~

~~8. Notwithstanding any other provision of law, no action of any kind, including, without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, may be brought at law or in equity against the trustee of a spendthrift trust if, as of the date the action is brought, an action by a creditor with respect to a transfer to the spendthrift trust would be barred pursuant to this section.~~

~~9. For purposes of this section, if a trustee exercises his or her discretion or authority to distribute trust income or principal to or for a beneficiary of the spendthrift trust, by appointing the property of the original spendthrift trust in favor of a second spendthrift trust for the benefit of one or more of the beneficiaries as authorized by NRS 163.556, the time of the transfer for purposes of this section shall be deemed to have occurred on the date the settlor of the original spendthrift trust transferred assets into the original spendthrift trust, regardless of the fact that the property of the original spendthrift trust may have been transferred to a second spendthrift trust.~~

~~10. As used in this section:~~

~~(a) "Adviser" means any person, including, without limitation, an accountant, attorney or investment adviser, who gives advice concerning or was involved in the creation of, transfer of property to, or administration of the spendthrift trust or who participated in the preparation of accountings, tax returns or other reports related to the trust.~~

~~(b) "Creditor" has the meaning ascribed to it in subsection 4 of NRS 112.150.] (Deleted by amendment.)~~

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 264 deletes sections 1 and 3 of the bill and adds new language clarifying that the provisions of NRS 112.230 regarding time limits applied to actions concerning certain fraudulent transfers do "not apply to a claim for relief with respect to a transfer of property to a spendthrift trust subject to chapter 166 of NRS."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 442.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 398.

SUMMARY—Revises provisions governing arbitration. (BDR 3-1138)

AN ACT relating to arbitration; authorizing the removal of an arbitrator from an arbitral proceeding under certain circumstances; prohibiting an arbitrator from consolidating separate arbitral proceedings or other claims under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Uniform Arbitration Act of 2000. (NRS 38.206-38.248) Under existing law, a person who is requested to serve as an arbitrator must disclose to all parties to the agreement to arbitrate and arbitral proceeding and to any other arbitrators any facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the proceeding. Existing law also authorizes a court, upon a timely objection by a party, to vacate an award made by an arbitrator who did not disclose such a fact. (NRS 38.227) Section 1 of this bill prohibits an arbitrator from

consolidating separate arbitral proceedings or other claims unless all parties expressly agree to such consolidation. ~~[This]~~ Section 2 of this bill requires a court to remove an arbitrator who did not disclose such a fact from the arbitral proceeding if an award has not yet been made.

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

Section 1. NRS 38.224 is hereby amended to read as follows:

38.224 1. Except as otherwise provided in subsection 3, upon motion of a party to an agreement to arbitrate or to an arbitral proceeding, the court may order consolidation of separate arbitral proceedings as to all or some of the claims if:

(a) There are separate agreements to arbitrate or separate arbitral proceedings between the same persons or one of them is a party to a separate agreement to arbitrate or a separate arbitral proceeding with a third person;

(b) The claims subject to the agreements to arbitrate arise in substantial part from the same transaction or series of related transactions;

(c) The existence of a common issue of law or fact creates the possibility of conflicting decisions in the separate arbitral proceedings; and

(d) Prejudice resulting from a failure to consolidate is not outweighed by the risk of undue delay or prejudice to the rights of or hardship to parties opposing consolidation.

2. The court may order consolidation of separate arbitral proceedings as to some claims and allow other claims to be resolved in separate arbitral proceedings.

3. The court may not order consolidation of the claims of a party to an agreement to arbitrate if the agreement prohibits consolidation.

4. An arbitrator may not consolidate separate arbitral proceedings or other claims unless all parties expressly agree to the consolidation.

~~[Section 1.]~~ *Sec. 2.* NRS 38.227 is hereby amended to read as follows:

38.227 1. Before accepting appointment, an individual who is requested to serve as an arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to arbitrate and arbitral proceeding and to any other arbitrators any known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator in the proceeding, including:

(a) A financial or personal interest in the outcome of the arbitral proceeding; and

(b) An existing or past relationship with any of the parties to the agreement to arbitrate or the arbitral proceeding, their counsel or representatives, a witness or another arbitrator.

2. An arbitrator has a continuing obligation to disclose to all parties to the agreement to arbitrate and arbitral proceeding and to any other arbitrators any facts that the arbitrator learns after accepting appointment which a reasonable person would consider likely to affect the impartiality of the arbitrator.

3. If an arbitrator discloses a fact required by subsection 1 or 2 to be disclosed and a party timely objects to the appointment or continued service of the arbitrator based upon the fact disclosed, the objection may be a ground under paragraph (b) of subsection 1 of NRS 38.241 for vacating an award made by the arbitrator.

4. If the arbitrator did not disclose a fact as required by subsection 1 or 2, upon timely objection by a party ~~[]~~ *and a determination by the court under paragraph (b) of subsection 1 of NRS 38.241 ~~[may vacate]~~ that the nondisclosed fact is one that a reasonable person would consider likely to affect the impartiality of the arbitrator in the arbitral proceeding, the court shall:*

(a) Vacate an award ~~[]~~ made before the objecting party discovered such fact; or

(b) If an award has not been made before discovery of such fact, remove the arbitrator from the arbitral proceeding.

5. An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct and material interest in the outcome of the arbitral proceeding or a known, existing and substantial relationship with a party is presumed to act with evident partiality for the purposes of paragraph (b) of subsection 1 of NRS 38.241.

6. If the parties to an arbitral proceeding expressly agree to the procedures of an arbitral organization or any other procedures for challenges to arbitrators before an award is made, substantial compliance with those procedures is a condition precedent to a motion to vacate an award on that ground under paragraph (b) of subsection 1 of NRS 38.241.

Sec. 3. NRS 38.241 is hereby amended to read as follows:

38.241 1. Upon motion to the court by a party to an arbitral proceeding, the court shall vacate an award made in the arbitral proceeding if:

(a) The award was procured by corruption, fraud or other undue means;

(b) There was:

(1) Evident partiality by an arbitrator appointed as a neutral arbitrator;

(2) Corruption by an arbitrator; or

(3) Misconduct by an arbitrator prejudicing the rights of a party to the arbitral proceeding;

(c) An arbitrator refused to postpone the hearing upon showing of sufficient cause for postponement, refused to consider evidence material to the controversy, or otherwise conducted the hearing contrary to NRS 38.231, so as to prejudice substantially the rights of a party to the arbitral proceeding;

(d) An arbitrator exceeded his or her powers;

(e) There was no agreement to arbitrate, unless the movant participated in the arbitral proceeding without raising the objection under subsection 3 of NRS 38.231 not later than the beginning of the arbitral hearing; or

(f) The arbitration was conducted without proper notice of the initiation of an arbitration as required in NRS 38.223 so as to prejudice substantially the rights of a party to the arbitral proceeding.

2. A motion under this section must be made within 90 days after the movant receives notice of the award pursuant to NRS 38.236 or within 90 days after the movant receives notice of a modified or corrected award pursuant to NRS 38.237, unless the movant alleges that the award was procured by *evident partiality*, corruption, fraud or other undue means, in which case the motion must be made within 90 days after the ground is known or by the exercise of reasonable care would have been known by the movant.

3. If the court vacates an award on a ground other than that set forth in paragraph (e) of subsection 1, it may order a rehearing. If the award is vacated on a ground stated in paragraph (a) or (b) of subsection 1, the rehearing must be before a new arbitrator. If the award is vacated on a ground stated in paragraph (c), (d) or (f) of subsection 1, the rehearing may be before the arbitrator who made the award or the arbitrator's successor. The arbitrator must render the decision in the rehearing within the same time as that provided in subsection 2 of NRS 38.236 for an award.

4. If the court denies a motion to vacate an award, it shall confirm the award unless a motion to modify or correct the award is pending.

Sec. 4. This act becomes effective upon passage and approval.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 442 provides that unless all involved parties expressly agree to do so, an arbitrator cannot consolidate separate proceedings or other claims.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 443.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 327.

SUMMARY—Revises provisions governing the acceptance of race book and sports pool wagers. (BDR 41-1135)

AN ACT relating to gaming; revising provisions governing the acceptance of race book and sports pool wagers; authorizing the Nevada Gaming Commission to adopt regulations governing the acceptance of race book and sports pool wagers from certain entities; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Nevada Gaming Commission and the State Gaming Control Board are required to perform various acts relating to the regulation and control of gaming. (NRS 463.140) This bill authorizes certain business entities to ~~[apply for registration with the Board for purposes of placing]~~ place race book and sports pool wagers ~~[]~~ under certain circumstances. This bill also authorizes the Commission to adopt regulations governing the acceptance of such wagers.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

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

~~1. The State of Nevada leads the nation in the regulation and enforcement of race book and sports pool wagers, such that the State is uniquely positioned to expand the means for natural persons to place race book and sports pool wagers in a controlled environment.~~

~~2. Allowing natural persons to pool money in a business entity which can then place race book and sports pool wagers with nonrestricted gaming licensees will increase wagering activity in this State.~~

~~3. A comprehensive registration of business entities that place race book and sports pool wagers will provide greater transparency for nonrestricted gaming licensees, prevent fraud and assist law enforcement agencies in this State.] (Deleted by amendment.)~~

Sec. 3. 1. A race book or sports pool may accept wagers from a business entity if the business entity has ~~registered with the Board~~ established a wagering account with the race book or sports pool and provided the information required pursuant to subsection 2. ~~Upon such registration, the~~ The business entity shall ~~be~~ :

(a) Be deemed to be a patron for the purposes of this chapter and chapter 465 of NRS.

(b) Place wagers in compliance with all applicable state and federal laws.

2. ~~[The Board shall register a] A business entity ~~upon the Board's receipt of~~ that wishes to establish a wagering account with a race book or sports pool shall provide to the race book or sports pool:~~

(a) The name, residential address, copy of a valid photo identification which evidences that the person is at least 21 years of age, and social security number or individual taxpayer identification number, of each of the business entity's equity owners, holders of indebtedness, directors, officers, managers and partners, anyone entitled to payments based on the profits or revenues and any designated individuals;

(b) The business entity's formation documents and ~~the initial or annual list as filed~~ all filings with the Secretary of State pursuant to title 7 of NRS; ~~and~~

(c) ~~Payment of \$ 1000 as an initial registration fee.~~

~~3. The registration of a business entity expires 1 year after the date of the delivery of the initial registration to the Board.~~

~~4. The registration of a business entity may be renewed annually upon payment of a renewal fee of \$500.~~

~~5.] Any other documentation or information the Commission may require; and~~

(d) Any other documentation or information the race book or sports pool may require.

3. A business entity shall ~~[file an amended registration]~~ update the information provided pursuant to subsection 2 within 5 business days after any change in the information or status, ~~[contained in any previous filing and shall pay a fee of \$100 for filing the amended registration]~~.

~~6. A person who knowingly submits any false information required pursuant to this section is guilty of perjury, which is a category D felony, and shall be punished as provided in NRS 193.130.~~

~~7. Before accepting the initial wager by a business entity, the operator of a race book or sports pool shall:~~

~~(a) Confirm with the Board that the business entity is registered pursuant to subsection 2; and~~

~~(b) Establish a wagering account through which the business entity's wagers are placed pursuant to regulations adopted by the Commission.~~

~~8. A registered business entity shall not distribute profits or pay any compensation to any person described in subsection 2 until such person has been disclosed in a registration with the Board.~~

~~9.]~~ 4. A ~~[registered]~~ business entity shall:

(a) In addition to the books and records required by law to be kept in this State, keep in this State originals or copies of the records received from the race book or sports pool for all wagers placed;

(b) Maintain an account in this State with a bank or other financial institution having a principal office, branch or agency located in this State, from which it shall transfer and receive all money used in wagering with an operator of a race book or sports pool; and

(c) Make any records pursuant to this subsection available for review by the Board or its agents.

~~[10.]~~ 5. Notwithstanding the provisions of NRS 463.350, a race book or sports pool may accept wagers from a designated individual of a ~~[registered]~~ business entity ~~].~~

~~11. Notwithstanding any other provision of law, a ~~[registered]~~ which has established a wagering account with the race book or sports pool.~~

6. A business entity ~~], any person described in subsection 2 and any agent acting on behalf of a registered business entity]~~ and any designated individual that places a wager with a race book or sports pool pursuant to this section must not be considered to be engaged in the unlawful accepting or facilitating of any bet or wager.

~~[12.]~~ 7. It is unlawful for any person either solely or in conjunction with others:

(a) To knowingly pay or distribute profits or any compensation to a designated individual or equity owner who is not disclosed to the race book or sports pool pursuant to subsection 2;

(b) To knowingly pay or distribute a percentage of revenue derived from the wagering activity of a business entity to a person who is not disclosed to the race book or sports pool pursuant to subsection 2;

(c) To wager with money received from a person who is not disclosed to the race book or sports pool pursuant to subsection 2; or

(d) To knowingly submit any false information as required by this section.

8. The Commission may, with the advice and assistance of the Board, adopt regulations as it deems necessary to carry out the provisions of this section.

9. As used in this section:

(a) "Business entity" means an entity organized and existing under the laws of this State.

(b) "Designated individual" means a person listed as an officer, director, partner or manager of a business entity in ~~the initial or annual list as filed~~ the business entity's filings with the Secretary of State pursuant to title 7 of NRS, and any other natural person authorized by the business entity in writing to place ~~race book or sports pool~~ wagers.

Sec. 3.5. NRS 463.360 is hereby amended to read as follows:

463.360 1. Conviction by a court of competent jurisdiction of a person for a violation of, an attempt to violate, or a conspiracy to violate any of the provisions of this chapter or of chapter 463B, 464 or 465 of NRS may act as an immediate revocation of all licenses which have been issued to the violator, and, in addition, the court may, upon application of the district attorney of the county or of the Commission, order that no new or additional license under this chapter be issued to the violator, or be issued to any person for the room or premises in which the violation occurred, for 1 year after the date of the revocation.

2. A person who willfully fails to report, pay or truthfully account for and pay over any license fee or tax imposed by the provisions of this chapter, or willfully attempts in any manner to evade or defeat any such license fee, tax or payment thereof is guilty of a category C felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

3. Except as otherwise provided in subsection 4, a person who willfully violates, attempts to violate, or conspires to violate any of the provisions of subsection 1 of NRS 463.160 or section 3 of this act 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, by a fine of not more than \$50,000, or by both fine and imprisonment.

4. A licensee who puts additional games or slot machines into play or displays additional games or slot machines in a public area without first obtaining all required licenses and approval is subject only to the penalties provided in NRS 463.270 and 463.310 and in any applicable ordinance of the county, city or town.

5. A person who willfully violates any provision of a regulation adopted pursuant to NRS 463.125 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. The violation of any of the provisions of this chapter, the penalty for which is not specifically fixed in this chapter, is a gross misdemeanor.

Sec. 4. This act becomes effective upon passage and approval.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 443 deletes the requirement that a business entity register with the State Gaming Control Board; enables the Nevada Gaming Commission to adopt regulations on business entity wagering as it deems appropriate; and adds criminal penalties for the failure to disclose persons involved with the business entity's wagering.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 444.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 346.

SUMMARY—Revises provisions governing civil actions. (BDR 3-1137)

AN ACT relating to civil actions; revising provisions governing the dismissal of certain claims based on the right to petition and the right to free speech under certain circumstances; revising provisions relating to special motions to dismiss such claims; repealing provisions authorizing certain monetary awards in proceedings related to special motions to dismiss such claims; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain provisions to deter frivolous or vexatious lawsuits (Strategic Lawsuits Against Public Participation, commonly known as "SLAPP lawsuits"). (Chapter 387, Statutes of Nevada 1997, p. 1363; NRS 41.635-41.670) A SLAPP lawsuit is characterized as a meritless suit filed primarily to discourage the named defendant's exercise of First Amendment rights. "The hallmark of a SLAPP lawsuit is that it is filed to obtain a financial advantage over one's adversary by increasing litigation costs until the adversary's case is weakened or abandoned." (*Metabolic Research, Inc. v. Ferrel*, 693 F.3d 795, 796 n.1 (9th Cir. 2012))

Existing law provides that a person who engages in good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is immune from civil liability for claims based upon that communication. (NRS 41.650) Section 4 of this bill defines, for the purposes of statutory provisions concerning SLAPP lawsuits, an issue of public concern as any topic that concerns the general public beyond a mere curiosity or general interest. Section 12 of this bill provides that any cause of action arising from a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is subject to a special motion to dismiss.

Section 5 of this bill requires a special motion to dismiss to be filed within 20 days ~~to~~ after service of the complaint, and to be limited to the issue of whether the claim arises from a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. If the court determines that such a claim does not arise from a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, section 6 of this bill requires the court to deny the special motion to dismiss. If the court determines that the claim does arise from a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, section 7 of this bill requires the plaintiff to establish prima facie evidence supporting each and every element of the claim other than elements requiring proof of the subjective intent or knowledge of the defendant. Section 7 further requires the court to determine whether the plaintiff has established such prima facie evidence within 20 judicial days after the plaintiff's filing of briefs and supporting evidence.

Section 8 of this bill provides that, if a court determines that the plaintiff established prima facie evidence of each and every element of its claim other than elements requiring proof of the subjective intent or knowledge of the defendant, the court must deny the special motion to dismiss. If the court determines that the defendant filed the special motion to dismiss in bad faith, section 8 requires the court to award the plaintiff reasonable attorney's fees and costs. If a court determines that the plaintiff has not established the required prima facie evidence, section 9 of this bill requires the court to dismiss the claim and award the defendant reasonable attorney's fees and costs.

Section 15 of this bill repeals provisions authorizing additional awards of compensation when a court dismisses a claim arising from a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern.

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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~10~~ 9.5, inclusive, of this act.

Sec. 2. 1. *The Legislature finds and declares that:*

(a) *Meritless lawsuits that arise from the public's exercise of the right to petition for the redress of grievances and the right of free speech as it relates to matters of public concern are Strategic Lawsuits Against Public Participation, commonly known as SLAPP suits; and*

(b) *Such lawsuits have a chilling effect on the exercise of such rights.*

2. *The Legislature reaffirms its support of the provisions of Section 9 of Article 1 of the Nevada Constitution which provide for the rights of every citizen of this State to freely speak, write and publish his or her thoughts on all subjects, while being responsible for the abuse of such rights.*

3. To avoid the chilling effect of meritless SLAPP suits while still providing a remedy when free speech rights have been abused, it is the Legislature's intent to provide for the early termination of SLAPP suits.

Sec. 3. NRS 41.635 to 41.660, inclusive, and sections 2 to ~~9.7~~ 9.5, inclusive, of this act may be referred to as the Nevada anti-SLAPP Law.

Sec. 3.5. "Defendant" means any person against whom a claim is asserted, including, without limitation, a counterclaim or cross-claim.

Sec. 4. "Issue of public concern" means any topic that concerns not only the speaker and the speaker's audience, but the general public, and is not merely a subject of curiosity or general interest.

Sec. 4.5. "Plaintiff" means any person asserting a claim, including, without limitation, a counterclaim or cross-claim.

Sec. 5. 1. A special motion to dismiss filed pursuant to NRS 41.660 must be:

(a) Filed within 20 days after service of the complaint, unless the court provides an extension of time for good cause shown; and

(b) Limited to the issue of whether the claim arises from a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern.

2. The plaintiff has 10 judicial days to file an opposition to a special motion to dismiss filed pursuant to subsection 1, and the defendant has 5 judicial days to reply to such an opposition.

3. Within 20 judicial days after service of a special motion filed pursuant to subsection 1, the court shall hear and determine whether the defendant has established, by a preponderance of the evidence, that the claim arises from a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. The court shall enter written findings of fact and conclusions of law on the record supporting the determination of the court.

4. Except as otherwise provided in this subsection, all discovery must be stayed pending a ruling by the court on a special motion to dismiss filed pursuant to subsection 1. Upon a showing by the plaintiff that information necessary to oppose the special motion to dismiss is in the possession of the defendant or a third party and is not reasonably available to the plaintiff without discovery, the court shall allow limited discovery for the purpose of ascertaining such information. The court may modify briefing and hearing schedules for the special motion to dismiss to accommodate limited discovery pursuant to this subsection.

Sec. 6. 1. If the court determines that a claim does not arise from a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, the court shall deny the special motion to dismiss.

2. If the court determines that the defendant filed the special motion to dismiss without a reasonable basis to contend that the claim arose from a communication in furtherance of the right to petition or the right to free

speech in direct connection with an issue of public concern, the court must award the plaintiff reasonable attorney's fees and costs incurred in opposing the special motion to dismiss.

Sec. 7. 1. *If the court determines that the claim arises from a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, the plaintiff has 15 judicial days after the court enters an order making such a determination to file such briefs, declarations and evidence necessary to establish prima facie evidence supporting each and every element of the claim, except such elements that require proof of the subjective intent or knowledge of the defendant.*

2. *The defendant has 10 judicial days to file an opposition to briefs, declarations and evidence filed pursuant to subsection 1, and the plaintiff has 5 judicial days to reply to such an opposition.*

3. *Within 20 judicial days ~~for~~ after the plaintiff serving the briefs, declarations and evidence required pursuant to subsection 1, the court shall:*

(a) *Determine whether the plaintiff has established prima facie evidence of each and every element of the claim, except such elements that require proof of the subjective intent or knowledge of the defendant; and*

(b) *Enter written findings of fact and conclusions of law on the record supporting the determination of the court.*

4. *Except as otherwise provided in this subsection, all discovery must be stayed pending a ruling by the court on whether the plaintiff has established prima facie evidence of each and every element of the claim, except such elements that require proof of the subjective intent or knowledge of the defendant pursuant to subsection 1. Upon a showing by the plaintiff that the information necessary to make such a prima facie showing is in the possession of the defendant or a third party and is not reasonably available to the plaintiff without discovery, the court shall allow limited discovery for the purpose of ascertaining such information. The court may modify briefing and hearing schedules for the special motion to dismiss to accommodate limited discovery pursuant to this subsection.*

Sec. 8. 1. *If the court determines that the plaintiff has established prima facie evidence of each and every element of its claim, except such elements that require proof of the subjective intent or knowledge of the defendant, the court shall deny the special motion to dismiss.*

2. *If the court determines that the defendant filed the special motion to dismiss in bad faith, the court shall award the plaintiff reasonable attorney's fees and costs incurred in opposing the special motion to dismiss.*

3. *The court shall ensure that a determination made pursuant to this section:*

(a) *Will not be admitted as evidence at any later stage of the underlying action or subsequent proceeding; or*

(b) *Will not affect the burden of proof required in the underlying action or subsequent proceeding.*

Sec. 9. 1. *If the court determines that the plaintiff has not established prima facie evidence of each and every element of the claim except such elements that require proof of the subjective intent or knowledge of the defendant, the court shall dismiss the claim and award the defendant reasonable attorney's fees and costs incurred in bringing the special motion to dismiss.*

2. *If the court dismisses the action pursuant to subsection 1, the dismissal operates as an adjudication upon the merits.*

Sec. 9.5. *If the court denies a special motion to dismiss filed pursuant to NRS 41.660, an interlocutory appeal lies to the appellate court of competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section 4 of Article 6 of the Nevada Constitution.*

Sec. 10. NRS 41.635 is hereby amended to read as follows:

41.635 As used in NRS 41.635 to ~~[41.670,]~~ 41.660, inclusive, and sections 2 to ~~[9,]~~ 9.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 41.637 and 41.640 and ~~[section]~~ sections 3.5, 4 and 4.5 of this act have the meanings ascribed to them in those sections.

Sec. 11. NRS 41.637 is hereby amended to read as follows:

41.637 ~~["Good faith communication"]~~ "Communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern" means any:

1. Communication that is aimed at procuring any governmental or electoral action, result or outcome;

2. Communication of information or a complaint to a Legislator, officer or employee of the Federal Government, this state or a political subdivision of this state, regarding a matter reasonably of concern to the respective governmental entity;

3. Written or oral statement made in direct connection with an issue under consideration by a legislative, executive or judicial body, or any other official proceeding authorized by law; or

4. Communication made in direct connection with an issue of public ~~[interest]~~ concern in a place open to the public or in a public forum. ~~[which is truthful or is made without knowledge of its falsehood.]~~

Sec. 12. NRS 41.650 is hereby amended to read as follows:

41.650 A cause of action against a person ~~[who engages in a good faith]~~ arising from a communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern ~~[is immune from any civil action for claims based upon the communication.]~~ is subject to a special motion to dismiss, and that motion must be granted by the court unless the plaintiff establishes that the claim is not meritless pursuant to section 8 of this act.

Sec. 13. NRS 41.660 is hereby amended to read as follows:

41.660 ~~[1.]~~ If an action is brought against a person ~~[based upon]~~ arising from a ~~[good faith]~~ communication in furtherance of the right to

petition or the right to free speech in direct connection with an issue of public concern:

~~[(a)]~~ 1. The person against whom the action is brought may file a special motion to dismiss; and

~~[(b)]~~ 2. The Attorney General or the chief legal officer or attorney of a political subdivision of this State may defend or otherwise support the person against whom the action is brought. If the Attorney General or the chief legal officer or attorney of a political subdivision has a conflict of interest in, or is otherwise disqualified from, defending or otherwise supporting the person, the Attorney General or the chief legal officer or attorney of a political subdivision may employ special counsel to defend or otherwise support the person.

~~[2.—A special motion to dismiss must be filed within 60 days after service of the complaint, which period may be extended by the court for good cause shown.~~

~~—3.—If a special motion to dismiss is filed pursuant to subsection 2, the court shall:~~

~~—(a) Determine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern;~~

~~—(b) If the court determines that the moving party has met the burden pursuant to paragraph (a), determine whether the plaintiff has established by clear and convincing evidence a probability of prevailing on the claim;~~

~~—(c) If the court determines that the plaintiff has established a probability of prevailing on the claim pursuant to paragraph (b), ensure that such determination will not:~~

~~——(1) Be admitted into evidence at any later stage of the underlying action or subsequent proceeding; or~~

~~——(2) Affect the burden of proof that is applied in the underlying action or subsequent proceeding;~~

~~—(d) Consider such evidence, written or oral, by witnesses or affidavits, as may be material in making a determination pursuant to paragraphs (a) and (b);~~

~~—(e) Stay discovery pending:~~

~~——(1) A ruling by the court on the motion; and~~

~~——(2) The disposition of any appeal from the ruling on the motion; and~~

~~—(f) Rule on the motion within 7 judicial days after the motion is served upon the plaintiff.~~

~~—4.—If the court dismisses the action pursuant to a special motion to dismiss filed pursuant to subsection 2, the dismissal operates as an adjudication upon the merits.]~~

Sec. 14. The amendatory provisions of this act apply to an action commenced on or after October 1, 2015.

Sec. 15. NRS 41.670 is hereby repealed.

TEXT OF REPEALED SECTION

41.670 Award of reasonable costs, attorney's fees and monetary relief under certain circumstances; separate action for damages; sanctions for frivolous or vexatious special motion to dismiss; interlocutory appeal.

1. If the court grants a special motion to dismiss filed pursuant to NRS 41.660:

(a) The court shall award reasonable costs and attorney's fees to the person against whom the action was brought, except that the court shall award reasonable costs and attorney's fees to this State or to the appropriate political subdivision of this State if the Attorney General, the chief legal officer or attorney of the political subdivision or special counsel provided the defense for the person pursuant to NRS 41.660.

(b) The court may award, in addition to reasonable costs and attorney's fees awarded pursuant to paragraph (a), an amount of up to \$10,000 to the person against whom the action was brought.

(c) The person against whom the action is brought may bring a separate action to recover:

(1) Compensatory damages;

(2) Punitive damages; and

(3) Attorney's fees and costs of bringing the separate action.

2. If the court denies a special motion to dismiss filed pursuant to NRS 41.660 and finds that the motion was frivolous or vexatious, the court shall award to the prevailing party reasonable costs and attorney's fees incurred in responding to the motion.

3. In addition to reasonable costs and attorney's fees awarded pursuant to subsection 2, the court may award:

(a) An amount of up to \$10,000; and

(b) Any such additional relief as the court deems proper to punish and deter the filing of frivolous or vexatious motions.

4. If the court denies the special motion to dismiss filed pursuant to NRS 41.660, an interlocutory appeal lies to the Supreme Court.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 444 adds language regarding when a court shall be required to allow discovery in these cases, provides that appeals may be taken and defines "plaintiff" for the purposes of the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 477.

Bill read second time.

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

Amendment No. 385.

SUMMARY—Revises provisions governing the installation of automatic fire sprinkler systems in certain single-family residences. (BDR 22-1110)

AN ACT relating to buildings; authorizing the governing body of a county or incorporated city in this State to adopt a building code or take any other action that requires the installation of an automatic fire sprinkler system in certain larger single-family residences; providing limitations on the authority of the governing body of a county or incorporated city in this State to adopt a building code or take any other action that requires the installation of an automatic fire sprinkler system in certain other single-family residences; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the governing body of any county or incorporated city in this State is authorized to adopt a building code that specifies the design, soundness and materials of structures. (NRS 278.580) Section 1 of this bill specifically authorizes such a governing body to adopt a building code or take any other action that requires the installation of an automatic fire sprinkler system in a new single-family residence that has an area of livable space of 5,000 square feet or more. Section 1 provides that, on or after ~~[October]~~ July 1, 2015, a governing body may adopt a building code or take any other action that requires the installation of an automatic fire sprinkler system in a new single-family residence that has an area of livable space of less than 5,000 square feet only if the governing body: (1) conducts an independent cost-benefit analysis of the proposed requirement to install an automatic fire sprinkler system; and (2) makes certain findings at a public hearing. Section 1 provides that a governing body may require the installation of an automatic fire sprinkler system in such a residence without conducting the cost-benefit analysis and making the findings otherwise required by section 1 if, with regard to any particular single-family residence, the governing body determines at a public hearing that the unique characteristics or location of the residence would cause ~~[a]~~ an unreasonable delay in firefighter response time.

Section 6 of this bill provides ~~[for the continued enforcement of]~~ that: (1) with certain exceptions, the amendatory provisions of section 1 do not prohibit the enforcement of any building code, ordinance, regulation or rule ~~[relating to]~~ which requires the installation of an automatic fire sprinkler system that was adopted by a governing body before ~~[the effective date of this bill]~~ January 1, 2015; (2) any building code, ordinance, regulation or rule which requires the installation of an automatic fire sprinkler system that was adopted by a governing body before January 1, 2015, but which makes such a requirement effective upon the occurrence of an event that has not occurred before January 1, 2015, is void and unenforceable; and (3) any building code, ordinance, regulation or rule which requires the installation of an automatic fire sprinkler system that was adopted by a governing body on or after January 1, 2015, but before the effective date of this bill, is void and unenforceable.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A governing body may adopt a building code or take any other action that requires the installation of an automatic fire sprinkler system in a new ~~for existing~~ residential dwelling unit that has an area of livable space of 5,000 square feet or more.*

2. *Except as otherwise provided in subsection 3, a governing body may, on or after ~~October~~ July 1, 2015, adopt a building code or take any other action that requires the installation of an automatic fire sprinkler system in a new ~~for existing~~ residential dwelling unit that has an area of livable space of less than 5,000 square feet only if, before adopting the building code or taking the action, the governing body:*

(a) Conducts an independent cost-benefit analysis of the adoption of a building code or the taking of any other action by the governing body that requires the installation of an automatic fire sprinkler system in a new ~~for existing~~ residential dwelling unit that has an area of livable space of less than 5,000 square feet; and

(b) Makes a finding at a public hearing that, based on the independent cost-benefit analysis conducted pursuant to paragraph (a), adoption of the building code or the taking of any other action by the governing body that requires the installation of an automatic fire sprinkler system in a new ~~for existing~~ residential dwelling unit that has an area of livable space of less than 5,000 square feet is to the benefit of the ~~occupants~~ owners of the residential dwelling units to which the requirement would be applicable ~~if~~ and that such benefit exceeds the costs related to the installation of automatic fire sprinkler systems in such residential dwelling units.

3. *A governing body may require the installation of an automatic fire sprinkler system in a new ~~for existing~~ residential dwelling unit that has an area of livable space of less than 5,000 square feet without conducting the analysis or making the findings required by subsection 2 if the governing body makes a determination at a public hearing that the unique characteristics or the location of the residential dwelling unit, when compared to residential dwelling units of comparable size or location within the jurisdiction of the governing body, would cause ~~it~~ an unreasonable delay in firefighter response time. In making such a determination, the governing body may consider : ~~it, without limitation:~~*

(a) The availability of water ~~pressure available~~ for use by firefighters ~~at the location of~~ in the area in which the residential dwelling unit ~~is~~ located;

(b) The ~~width of the streets which~~ availability to firefighters ~~would have to use to~~ of access to the residential dwelling unit;

(c) The ~~steepness of the grade of any streets and property around or on~~ topography of the area in which the residential dwelling unit is located; and

~~(d) The [distance between the residential dwelling unit and any firefighting stations of the local jurisdiction.] availability of firefighting resources in the area in which the residential dwelling unit is located.~~

4. The provisions of this section do not prohibit ~~for~~ :

(a) A local government from enforcing an agreement for the development of land which requires the installation of an automatic fire sprinkler system in any residential dwelling unit; or

(b) A person from installing an automatic fire sprinkler system in any residential dwelling unit.

5. As used in this section ~~for~~ "automatic" :

(a) "Automatic fire sprinkler system" has the meaning ascribed to it in NRS 202.580.

(b) "Residential dwelling unit" does not include a condominium unit, an apartment unit or a townhouse unit that shares a common wall with more than one other such unit.

Sec. 2. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0103 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 278.580 is hereby amended to read as follows:

278.580 1. Subject to the limitation set forth in NRS 244.368, *and section 1 of this act*, the governing body of any city or county may adopt a building code, specifying the design, soundness and materials of structures, and may adopt rules, ordinances and regulations for the enforcement of the building code.

2. The governing body may also fix a reasonable schedule of fees for the issuance of building permits. A schedule of fees so fixed does not apply to the State of Nevada or the Nevada System of Higher Education, except that such entities may enter into a contract with the governing body to pay such fees for the issuance of building permits, the review of plans and the inspection of construction. Except as it may agree to in such a contract, a governing body is not required to provide for the review of plans or the inspection of construction with respect to a structure of the State of Nevada or the Nevada System of Higher Education.

3. Notwithstanding any other provision of law, the State and its political subdivisions shall comply with all zoning regulations adopted pursuant to this chapter, except for the expansion of any activity existing on April 23, 1971.

4. A governing body shall amend its building codes and, if necessary, its zoning ordinances and regulations to permit the use of:

(a) Straw or other materials and technologies which conserve scarce natural resources or resources that are renewable in the construction of a structure; and

(b) Systems which use solar or wind energy to reduce the costs of energy for a structure if such systems and structures are otherwise in compliance with applicable building codes and zoning ordinances, including those relating to the design, location and soundness of such systems and structures, ➡ to the extent the local climate allows for the use of such materials, technologies, resources and systems.

5. The amendments required by subsection 4 may address, without limitation:

(a) The inclusion of characteristics of land and structures that are most appropriate for the construction and use of systems using solar and wind energy.

(b) The recognition of any impediments to the development of systems using solar and wind energy.

(c) The preparation of design standards for the construction, conversion or rehabilitation of new and existing systems using solar and wind energy.

6. A governing body shall amend its building codes to include:

(a) The seismic provisions of the International Building Code published by the International Code Council; and

(b) Standards for the investigation of hazards relating to seismic activity, including, without limitation, potential surface ruptures and liquefaction.

Sec. 4. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.02315, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, *and section 1 of this act*, the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 5. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.02315, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, *and section 1 of this act*, the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, those fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 6. ~~[Any]~~

1. Except as otherwise provided in subsection 2, the amendatory provisions of section 1 of this act do not prohibit the enforcement by the governing body of a county or incorporated city in this State of any building code, ordinance, regulation or rule adopted by the governing body ~~[of a county or incorporated city in this State before October]~~ before January 1, 2015, which requires the installation of an automatic fire sprinkler system specified in section 1 of this act. ~~[remains in effect and may be enforced by the governing body until the governing body repeals or amends the building code, ordinance, regulation or rule.]~~

2. Any building code, ordinance, regulation or rule adopted by the governing body of a county or incorporated city in this State before January 1, 2015, which requires the installation of an automatic fire sprinkler system specified in section 1 of this act and is effective upon the occurrence of any event, including, without limitation, the issuance of a certain number of building permits by the governing body, is hereby declared void and may not be enforced by the governing body if the event upon which the requirement for the installation of an automatic fire sprinkler system is effective did not occur before January 1, 2015.

3. Any building code, ordinance, regulation or rule adopted by the governing body of a county or incorporated city in this State on or after January 1, 2015, but before the effective date of this act, which requires the installation of an automatic fire sprinkler system specified in section 1 of this act is hereby declared void and may not be enforced by the governing body.

Sec. 7. This act becomes effective upon passage and approval.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

In addition to tightening up some of the language, this amendment to Senate Bill No. 477: 1) removes "existing" from the bill to focus solely on certain "new" residential dwelling units; 2) moves up the date from October 1, 2015, to July 1, 2015, for a governing body to be authorized to adopt a building code or take any other action that requires the installation of an automatic fire sprinkler system for certain residential dwelling units; and 3) provides certain exceptions to the continued enforcement of any building code, ordinance, regulation or rule relating to the installation of an automatic fire sprinkler system in a residential dwelling unit based, in part, on the date it was adopted.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 501.

Bill read second time.

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

Amendment No. 388.

SUMMARY—Revises provisions relating to the State Dental health Officer and the State Public Health Dental Hygienist. (BDR 40-1162)

AN ACT relating to public health; authorizing the State Dental Health Officer and the State Public Health Dental Hygienist to serve in the

unclassified service of the State or as a contractor for the Division of Public and Behavioral Health of the Department of Health and Human Services; requiring the State Dental Health Officer and the State Public Health Dental Hygienist to work collaboratively; requiring the State Dental Health Officer to seek certain information and advice from dental education programs in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the appointment of a State Dental Health Officer and a State Public Health Dental Hygienist and specifies that those positions are in the unclassified service of the State. (NRS 439.272, 439.279) This bill provides that those positions may, in lieu of being in the unclassified service, be contractors for the Division of Public and Behavioral Health of the Department of Health and Human Services. Existing law requires the State Dental Health Officer to supervise the activities of the State Public Health Dental Hygienist, and requires the State Public Health Dental Hygienist to assist the State Dental Health Officer. (NRS 439.272, 439.279) This bill further requires the State Dental Health Officer and the State Public Health Dental Hygienist to work collaboratively with each other. Existing law requires the State Dental Health Officer to seek information and advice from a dental school of the Nevada System of Higher Education as necessary to carry out his or her duties. (NRS 439.272) This bill expands this provision to require the State Dental Health Officer to seek such information and advice from any dental education program in this State, including any such program of the Nevada System of Higher Education.

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

Section 1. NRS 439.272 is hereby amended to read as follows:

439.272 1. The Division shall appoint, with the consent of the Director, a State Dental Health Officer, who ~~is~~ *may serve* in the unclassified service of the State ~~or as a contractor for the Division~~. The State Dental Health Officer must:

- (a) Be a resident of this State;
- (b) Hold a current license to practice dentistry issued pursuant to chapter 631 of NRS; and
- (c) Be appointed on the basis of his or her education, training and experience and his or her interest in public dental health and related programs.

2. The State Dental Health Officer shall:

- (a) Determine the needs of the residents of this State for public dental health;
- (b) Provide the Advisory Committee and the Division with advice regarding public dental health;
- (c) Make recommendations to the Advisory Committee, the Division and the Legislature regarding programs in this State for public dental health;

(d) ~~[Supervise the activities of]~~ *Work collaboratively with* the State Public Health Dental Hygienist; and

(e) Seek such information and advice from the Advisory Committee or ~~the dental school~~ *from any dental education program in this State, including any such programs* of the Nevada System of Higher Education, as necessary to carry out his or her duties.

3. The State Dental Health Officer shall devote all of his or her time to the business of his or her office and shall not pursue any other business or vocation or hold any other office of profit.

4. Pursuant to NRS 439.2794, the Division may solicit and accept gifts and grants to pay the costs associated with oral health programs.

Sec. 2. NRS 439.279 is hereby amended to read as follows:

439.279 1. The Division shall appoint, with the consent of the Director, a State Public Health Dental Hygienist, who ~~is~~ *may serve* in the unclassified service of the State ~~[-]~~ *or as a contractor for the Division*. The State Public Health Dental Hygienist must:

(a) Be a resident of this State;

(b) Hold a current license to practice dental hygiene issued pursuant to chapter 631 of NRS with a special endorsement issued pursuant to NRS 631.287; and

(c) Be appointed on the basis of his or her education, training and experience and his or her interest in public health dental hygiene and related programs.

2. The State Public Health Dental Hygienist:

(a) Shall ~~assist~~ *work collaboratively with* the State Dental Health Officer in carrying out his or her duties; and

(b) May:

(1) Provide advice and make recommendations to the Advisory Committee and the Division regarding programs in this State for public health dental hygiene; and

(2) Perform any acts authorized pursuant to NRS 631.287.

3. The State Public Health Dental Hygienist shall devote all of his or her time to the business of his or her office and shall not pursue any other business or vocation or hold any other office of profit.

4. The Division may solicit and accept gifts and grants to pay the costs associated with the position of State Public Health Dental Hygienist.

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

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 388 to Senate Bill No. 501 requires the State Dental Health Officer to seek certain information and advice from any dental education program in this State, including any such program of the Nevada System of Higher Education, as necessary to carry out the provisions of his or her duties.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bills Nos. 60, 443, 501 be re-referred to the Committee on Finance, upon return from reprint.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 327 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOSEPH P. HARDY, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 48.

Bill read second time.

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

Amendment No. 75.

SUMMARY—Revises provisions relating to health information exchanges. (BDR 40-323)

AN ACT relating to public health; repealing provisions that provide for a statewide health information exchange system; authorizing the Director of the Department of Health and Human Services to establish or contract with a health information exchange to serve as the statewide health information exchange; providing for the certification of a health information exchange; providing for an administrative fine to be imposed for operating a health information exchange without obtaining a certification; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Director of the Department of Health and Human Services is required to: (1) establish a statewide health information exchange system and a governing entity for the system; and (2) prescribe various regulations relating to the operation of health information exchanges and the use and transmission of electronic health records, health-related information and related data. (NRS 439.587) Sections 3-6, 8-10 and 12 of this bill eliminate the requirement that the Director establish a statewide health information exchange system, including the establishment of a governing entity for the system, and eliminate various provisions relating to a statewide health information exchange system. Although this bill eliminates a statewide system, the existing provisions governing health information exchanges remain. Section 2 of this bill ~~excludes health care providers who directly provide health related information to other health care providers by certain electronic means from~~ revises the definition of "health information exchange" to mean a person who makes an electronic means of connecting disparate systems available for the secure transfer of certain health-related information between certain persons. Section 3 authorizes the Director to establish or contract with not more than one health information

exchange to serve as the statewide health information exchange for certain purposes.

Section 4 requires ~~[a person or governmental entity to receive a]~~ certification from the Director before ~~[operating]~~ a health information exchange may operate in this State and establishes provisions governing the certification of health information exchanges. Section 4 also provides for the imposition of an administrative fine for ~~[operating]~~ a health information exchange operating without a certification. Section 11 of this bill, however, gives a health information exchange that is already operating in this State until July 1, 2016, to comply with this requirement.

Sections 5 and 7 of this bill revise provisions relating to health records to require the patient's consent for the retrieval, rather than the transmission, of his or her health records.

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

Section 1. NRS 439.581 is hereby amended to read as follows:

439.581 As used in NRS 439.581 to 439.595, inclusive, unless the context otherwise requires, the words and terms defined in NRS 439.582 to ~~[439.586,]~~ 439.585, inclusive, have the meanings ascribed to them in those sections.

Sec. 2. NRS 439.584 is hereby amended to read as follows:

439.584 "Health information exchange" means ~~[an organization that provides for the electronic movement of]~~ a person who makes available an electronic means of connecting disparate electronic systems on which health-related information [across and among disparate organizations] is shared which:

1. Is made commercially available to health care providers and other covered entities by a covered entity or the business associate of a covered entity, as those terms are defined in 45 C.F.R. § 160.103; and

2. Allows the secure transfer of clinical information concerning the health of a patient according to nationally recognized standards [The term does not include a health care provider who directly transfers health related information to another health care provider electronically, including, without limitation, information transferred via facsimile.] to any health care provider who provides services to the patient that elects to exchange health information in such a manner.

Sec. 3. NRS 439.587 is hereby amended to read as follows:

439.587 1. The Director is the state authority for health information technology. The Director shall:

(a) ~~[Establish a statewide health information exchange system, including, without limitation, establishing or contracting with a governing entity for the system pursuant to NRS 439.588, and ensuring the system complies]~~ Ensure that a health information exchange complies with the specifications and protocols for exchanging electronic health records, health-related information and related data prescribed pursuant to the provisions of the Health

Information Technology for Economic and Clinical Health Act of 2009, 42 U.S.C. §§ 300jj et seq. and 17901 et seq., and other applicable federal and state law;

(b) Encourage the use of ~~[the statewide]~~ *a* health information exchange ~~[system]~~ by health care providers, payers and patients;

(c) Prescribe by regulation standards for the electronic transmittal of electronic health records, prescriptions, health-related information, electronic signatures and requirements for electronic equivalents of written entries or written approvals in accordance with federal law;

(d) Prescribe by regulation rules governing the ownership, management and use of electronic health records, health-related information and related data ~~[in the statewide]~~ *retained or shared by a* health information exchange ; ~~[system;]~~ and

(e) Prescribe by regulation, in consultation with the State Board of Pharmacy, standards for the electronic transmission of prior authorizations for prescription medication using a health information exchange.

2. *The Director may establish or contract with not more than one health information exchange to serve as the statewide health information exchange to be responsible for compiling statewide master indexes of patients, health care providers and payers. The Director may by regulation prescribe the requirements for a statewide health information exchange, including, without limitation, the procedure by which any patient, health care provider or payer master index created pursuant to any contract is transferred to the State upon termination of the contract.*

3. The Director may enter into contracts, apply for and accept available gifts, grants and donations, and adopt such regulations as are necessary to carry out the provisions of NRS 439.581 to 439.595, inclusive.

Sec. 4. NRS 439.588 is hereby amended to read as follows:

439.588 1. ~~[The Director shall establish or contract with not more than one nonprofit entity to govern the statewide health information exchange system. The Director shall by regulation prescribe the requirements for that governing entity.~~

~~— 2. The governing entity established or contracted with pursuant to this section:~~

~~— (a) Must comply with all federal and state laws governing such entities and health information exchanges.~~

~~— (b) Must have a governing body which complies with all relevant requirements of federal law and which consists of representatives of health care providers, insurers, patients, employers and others who represent interests related to electronic health records and health information exchanges.~~

~~— (c) Shall oversee and govern the exchange of electronic health records and health related information within the statewide health information exchange system.~~

~~— (d) May, with the approval of the Director, hire or contract with a public or private entity to administer the statewide health information exchange system.~~

~~— (e) May enter into contracts with any health information exchange which is certified by the Director pursuant to subsection 4 to participate in the statewide health information exchange system. The governing entity shall not enter into a contract with a health information exchange that is not certified.~~

~~— (f) Is accountable to the Director, in his or her capacity as the state authority for health information technology, for carrying out the provisions of a contract entered into pursuant to this section.~~

~~— (g) May apply for and accept available gifts, grants and donations for the support of the governing entity and the statewide health information exchange system.~~

~~— 3. The governing body of the governing entity shall hold public meetings at such times as required by the Director. Such meetings must be conducted in accordance with the provisions of chapter 241 of NRS.~~

~~— 4.] A ~~person shall not operate a~~ health information exchange shall not operate in this State without first obtaining certification as provided in subsection 2.~~

2. The Director shall by regulation establish the manner in which a health information exchange may apply for certification and the requirements for granting such certification, which must include, without limitation, that the health information exchange demonstrate its financial and operational sustainability ~~[.]~~, *adherence to the privacy, security and patient consent standards adopted pursuant to NRS 439.589 and capacity for interoperability with any other health information exchange* ~~[.]~~ certified pursuant to this section.

3. *The Director may deny an application for certification or may suspend or revoke any certification issued pursuant to subsection 2 for failure to comply with the provisions of NRS 439.581 to 439.595, inclusive, or the regulations adopted pursuant thereto or any applicable federal or state law.*

4. *When the Director intends to deny, suspend or revoke a certification, he or she shall give reasonable notice to all parties by certified mail. The notice must contain the legal authority, jurisdiction and reasons for the action to be taken. A ~~person who~~ health information exchange that wishes to contest the action of the Director must file an appeal with the Director.*

5. *The Director shall adopt regulations establishing the manner in which a person may file a complaint with the Director regarding a violation of the provisions of this section.*

6. *The Director may impose an administrative fine against a ~~person who operates a~~ health information exchange which operates in this State without holding a certification in an amount established by the Director by regulation. The Director shall afford ~~any person~~ a health information exchange so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.*

7. *The Director may adopt such regulations as he or she determines are necessary to carry out the provisions of this section.*

Sec. 5. NRS 439.589 is hereby amended to read as follows:

439.589 1. The Director shall by regulation prescribe standards:

(a) To ensure that electronic health records ~~[and the statewide included in]~~ retained or shared by any health information exchange ~~[system]~~ are secure;

(b) To maintain the confidentiality of electronic health records and health-related information, including, without limitation, standards to maintain the confidentiality of electronic health records relating to a child who has received health care services without the consent of a parent or guardian and which ensure that a child's right to access such health care services is not impaired;

(c) To ensure the privacy of individually identifiable health information, including, without limitation, standards to ensure the privacy of information relating to a child who has received health care services without the consent of a parent or guardian;

(d) For obtaining consent from a patient before ~~[transmitting]~~ retrieving the patient's health records ~~[to the]~~ from a health information exchange, ~~[system,]~~ including, without limitation, standards for obtaining such consent from a child who has received health care services without the consent of a parent or guardian;

(e) For making any necessary corrections to information or records ~~[included in the statewide]~~ retained or shared by a health information exchange ; ~~[system,]~~ and

(f) For notifying a patient if the confidentiality of information contained in an electronic health record of the patient is breached.

2. The standards prescribed pursuant to this section must include, without limitation:

(a) ~~[Training requirements for persons who work with electronic health records or the statewide health information exchange system;~~

~~—(b)]~~ Requirements for the creation, maintenance and transmittal of electronic health records;

~~[(e)]~~ (b) Requirements for protecting confidentiality, including control over, access to and the collection, organization and maintenance of electronic health records, health-related information and individually identifiable health information;

~~[(d)]~~ (c) Requirements for the manner in which ~~[the statewide health information exchange system will remove or exclude health records or any portion thereof upon the request of a person about whom the record pertains and the requirements for a person to make such a request;~~

~~—(e)]~~ a patient may, through a health care provider who participates in the sharing of health records using a health information exchange, revoke his or her consent for [the] a health care provider to retrieve the patient's health records from [a] the health information exchange;

(d) A secure and traceable electronic audit system for identifying access points and trails to electronic health records and health information exchanges; and

~~{(f)}~~ (e) Any other requirements necessary to comply with all applicable federal laws relating to electronic health records, health-related information, health information exchanges and the security and confidentiality of such records and exchanges.

Sec. 6. NRS 439.590 is hereby amended to read as follows:

439.590 1. ~~{A health care provider, insurer or other payer that elects to participate in the statewide health information exchange system must agree to comply with all requirements prescribed by the Director and imposed by the governing entity established or contracted with pursuant to NRS 439.588.~~

~~— 2. A health care provider may not be required to participate in the statewide health information exchange system and may not be subject to any disciplinary action for electing not to participate in the system.~~

~~— 3. The Director may prohibit a person from participating in the statewide health information exchange system if the person does not comply with the provisions of NRS 439.581 to 439.595, inclusive, or the requirements prescribed by the Director and imposed by the governing entity established or contracted with pursuant to NRS 439.588.~~

~~— 4. }~~ Except as otherwise authorized by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, a person shall not use, release or publish:

(a) Individually identifiable health information from an electronic health record or ~~{the statewide}~~ a health information exchange ~~{system}~~ for a purpose unrelated to the treatment, care, well-being or billing of the person who is the subject of the information; or

(b) Any information contained in an electronic health record or ~~{the statewide}~~ *retained by or retrieved from* a health information exchange ~~{system}~~ for a marketing purpose.

~~{5. }~~ 2. Individually identifiable health information obtained from an electronic health record or ~~{the statewide}~~ a health information exchange ~~{system}~~ concerning health care services received by a child without the consent of a parent or guardian of the child must not be disclosed to the parent or guardian of the child without the consent of the child which is obtained in the manner established pursuant to NRS 439.589.

~~{6. }~~ 3. A person who accesses an electronic health record ~~{, the statewide health information exchange system}~~ or a health information exchange without authority to do so is guilty of a misdemeanor and liable for any damages to any person that result from the unauthorized access.

~~{7. }~~ 4. The Director shall adopt regulations establishing the manner in which a person may file a complaint with the Director regarding a violation of the provisions of this section. The Director shall also post on the Internet website of the Department and publish in any other manner the Director deems necessary and appropriate information concerning the manner in

which to file a complaint with the Director and the manner in which to file a complaint of a violation of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

Sec. 7. NRS 439.591 is hereby amended to read as follows:

439.591 1. Except as otherwise provided in subsection 2 of NRS 439.538, a patient must not be required to participate in a health information exchange. Before a patient's health care records may be ~~transmitted electronically or included in~~ *retrieved from* a health information exchange, the patient must be fully informed and consent, in the manner prescribed by the Director. ~~[, to the transmittal or inclusion.]~~

2. A patient must be notified in the manner prescribed by the Director of any breach of the confidentiality of electronic health records of the patient or a health information exchange.

3. A patient who consents to the ~~[inclusion]~~ *retrieval* of his or her electronic health record ~~[in]~~ *from* a health information exchange may at any time request that a health care provider access ~~[to]~~ and provide the patient with his or her electronic health record in accordance with the provisions of 45 C.F.R. § 164.526.

Sec. 8. NRS 439.592 is hereby amended to read as follows:

439.592 1. Except as otherwise prohibited by federal law:

(a) If a statute or regulation requires that a health care record, prescription, medical directive or other health-related document be in writing, or that such a record, prescription, directive or document be signed, an electronic health record, an electronic signature or the transmittal *or retrieval* of health information in accordance with the provisions of NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto shall be deemed to comply with the requirements of the statute or regulation.

(b) If a statute or regulation requires that a health care record or information contained in a health care record be kept confidential, maintaining, ~~[or]~~ transmitting *or retrieving* that information in an electronic health record or ~~[the statewide]~~ *by a* health information exchange ~~[system]~~ in accordance with the provisions of NRS 439.581 to 439.595, inclusive, and the regulations adopted pursuant thereto concerning the confidentiality of records shall be deemed to comply with the requirements of the statute or regulation.

2. As used in this section, "health care record" has the meaning ascribed to it in NRS 629.021.

Sec. 9. NRS 439.593 is hereby amended to read as follows:

439.593 A health care provider who with reasonable care relies upon an apparently genuine electronic health record accessed ~~[through the statewide]~~ *from a* health information exchange ~~[system]~~ to make a decision concerning the provision of health care to a patient is immune from civil or criminal liability for the decision if:

1. The electronic health record is inaccurate;
2. The inaccuracy was not caused by the health care provider;

3. The inaccuracy resulted in an inappropriate health care decision; and

4. The health care decision was appropriate based upon the information contained in the inaccurate electronic health record.

Sec. 10. NRS 449.925 is hereby amended to read as follows:

449.925 1. A person who wishes to register an advance directive must submit to the Secretary of State:

(a) An application in the form prescribed by the Secretary of State;

(b) A copy of the advance directive; and

(c) The fee, if any, established by the Secretary of State pursuant to NRS 449.955.

2. If the person satisfies the requirements of subsection 1, the Secretary of State shall:

(a) Make an electronic reproduction of the advance directive and post it to the Registry and, if the person consents pursuant to NRS 439.591, ~~the statewide~~ a health information exchange ~~system~~ established pursuant to NRS 439.581 to 439.595, inclusive ~~[-], if that health information exchange is connected to the Registry;~~

(b) Assign a registration number and password to the registrant; and

(c) Provide the registrant with a registration card that includes, without limitation, the name, registration number and password of the registrant.

3. The Secretary of State shall establish procedures for:

(a) The registration of an advance directive that replaces an advance directive that is posted on the Registry;

(b) The removal from the Registry of an advance directive that has been revoked following the revocation of the advance directive or the death of the registrant; and

(c) The issuance of a duplicate registration card or the provision of other access to the registrant's registration number and password if a registration card issued pursuant to this section is lost, stolen, destroyed or otherwise unavailable.

Sec. 11. ~~[-]~~ A health ~~insurance~~ information exchange that is in operation in this State before January 1, 2016, is exempt from the provisions of NRS 439.588, as amended by section 4 of this act, until July 1, 2016.

~~[2. A provisional certification issued pursuant to this section shall be deemed to be a certification issued by the Director pursuant to NRS 439.588 as amended by section 4 of this act.]~~

Sec. 12. NRS 439.586 and 439.594 are hereby repealed.

Sec. 13. This act becomes effective upon passage and approval for purposes of adopting regulations and on January 1, 2016, for all other purposes.

TEXT OF REPEALED SECTIONS

439.586 "Statewide health information exchange system" defined. "Statewide health information exchange system" means the system established pursuant to NRS 439.581 to 439.595, inclusive, for the electronic

movement, storage, analysis and exchange of electronic health records, health-related information and related data.

439.594 Immunity from liability for governing entity, administrator of system and health information exchange. The governing entity established or contracted with pursuant to NRS 439.588, a public or private entity with whom the governing entity contracts to administer the statewide health information system pursuant to NRS 439.588, and any health information exchange with which the governing entity contracts pursuant to NRS 439.588 that with reasonable care includes or causes to be included in the statewide health information exchange system apparently genuine health-related information that was provided to the governing entity, administrator or health information exchange, as applicable, is immune from civil and criminal liability for including the information in the statewide health information exchange system if reliance on that information by a health care provider results in an undesirable or adverse outcome if:

1. The information in the statewide health information exchange system mirrors the information that was provided to the governing entity, administrator or health information exchange;

2. The health care provider was informed of known risks associated with the quality and accuracy of information included in the statewide health information exchange system;

3. Any inaccuracy in the information included in the statewide health information exchange system was not caused by the governing entity, administrator or the health information exchange; and

4. The information in the statewide health information exchange system:

- (a) Was incomplete, if applicable, because a health care provider elected not to participate in the system; or

- (b) Was not available, if applicable, because of operational issues with the system, which may include, without limitation, maintenance or inoperability of the system.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 75 to Senate Bill No. 48 revises the definition of "health information exchange" to mean a person who makes an electronic means of connecting disparate systems available for the secure transfer of certain health-related information between certain persons; removes references to a person who operates an exchange, and instead references the health information exchange itself to reflect that a person or an organization could operate a health information exchange; clarifies the manner by which a patient may revoke consent for a health care provider to retrieve the patient's health records from the health information exchange or request their electronic health record; and corrects references to a "health insurance exchange" rather than the correct "health information exchange."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Ford moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 7:06 p.m.

SENATE IN SESSION

At 7:08 p.m.

President Hutchison presiding.

Quorum present.

Senate Bill No. 94.

Bill read second time.

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

Amendment No. 434.

SUMMARY—Makes various changes relating to transferable tax credits for film and other productions. (BDR 32-58)

AN ACT relating to taxation; revising the provisions governing transferable tax credits for film and other productions; narrowing the class of persons who may apply for such tax credits; revising the process for making and acting upon such an application; revising the provisions governing the calculation of the tax credits; revising the limitation on the total amount of tax credits that may be issued; repealing the prospective expiration of the provisions governing the tax credits; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a program for the issuance of transferable tax credits by the Office of Economic Development to the producer of a motion picture or other qualified production, based upon production-related expenditures made for the purchase of personal property or services from a Nevada business. (NRS 360.758-360.7598)

This bill makes various changes to the program. Under existing law, transferable tax credits are available to a "producer," defined as a "natural person or business that finances, arranges to finance or supervises the production of a qualified production." Section 8 of this bill revises this definition to substitute "production company" for "producer" and eliminate the reference to a natural person, with the result that only a business meeting the requirements of the definition may apply for and receive the tax credits.

Existing law requires an applicant for the tax credits to show that at least 60 percent of the expenditures for the production, including expenditures for preproduction and postproduction, will be incurred in Nevada. (NRS 360.759) Section 10 of this bill removes expenditures for postproduction from this calculation unless such expenditures will be incurred in Nevada, and sections 10 and 15 of this bill otherwise revise the process for applying for the tax credits. Section 10 also extends the time allowed, after the receipt of a postproduction audit, for the Office to make a final determination concerning the issuance and amount of the tax credits.

Existing law specifies the expenditures that may serve as the basis for the issuance of the tax credits. (NRS 360.7591) Section 11 of this bill: (1) clarifies that expenditures may be made for the rental or lease of personal property in addition to purchases; (2) excludes payments made to a joint venturer or an affiliate of a production company, except payments representing the fair market value of a purchase, rental or lease; and (3) limits the inclusion of expenditures made for property acquired by a Nevada business from a vendor outside Nevada for immediate resale, rental or lease to a qualified production.

Existing law governs the calculation of the "base amount" of tax credits and certain additional amounts for the employment of Nevada residents and the performance of production work in certain counties in this State. (NRS 360.7592, 360.7593) Section 12 of this bill increases the additional amounts and revises provisions relating to the employment of Nevada residents by, among other things, excluding work performed by extras. Section 13 of this bill revises the formula for the inclusion of wages and salaries paid to certain persons who are not Nevada residents.

Under existing law, the total amount of tax credits that may be approved over the life of the program is \$10,000,000. The Office is prohibited from approving any application for tax credits received on or after January 1, 2018, and the program is scheduled to expire by limitation on June 30, 2023. (NRS 360.7594, Chapter 491, Statutes of Nevada 2013, p. 3097) Section 14 of this bill removes the \$10,000,000 limitation on the total amount of tax credits that may be approved and the deadline for the submission of applications. Instead, section 14 limits the amount of tax credits that may be approved for any fiscal year to the amount appropriated or authorized for expenditure for that purpose for that fiscal year. Section 19 of this bill eliminates the prospective expiration of the program.

Existing law authorizes the governing body of a city or county, on or before December 31, 2017, to abate some or all of any fee for a permit or license that would otherwise be charged in connection with a qualified production for which tax credits have been approved. (NRS 360.7596) Section 16 of this bill eliminates the prospective expiration of the period within which such an abatement may be granted.

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Qualified direct production expenditures" means expenditures for a qualified production that are identified in NRS 360.7591 and may serve as a basis for transferable tax credits issued pursuant to NRS 360.759.*

Sec. 3. *To determine whether an employee of an enterprise is a full-time equivalent employee for the purposes of NRS 360.7583, the hours worked by all the part-time and seasonal employees of the enterprise in this State must be converted into full-time equivalent hours by dividing by 2,080 the total*

number of hours worked for the enterprise by those part-time and seasonal employees.

Sec. 4. NRS 360.758 is hereby amended to read as follows:

360.758 As used in NRS 360.758 to 360.7598, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 360.7581 to 360.7586, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 360.7581 is hereby amended to read as follows:

360.7581 1. "Above-the-line personnel" means ~~{a}~~ *an executive producer, co-executive producer, producer, director, writer, principal actor, [other than an extra, or other similar personnel whose compensation is negotiated before the start of the]* any other person having creative or financial control over a qualified production ~~{-}~~ or any other person associated with such a person. The term does not include below-the-line personnel.

2. *As used in this section, "principal actor" means a member of the main cast of a qualified production.*

Sec. 6. NRS 360.7582 is hereby amended to read as follows:

360.7582 "Below-the-line personnel" means a person employed to work on a qualified production after production begins and before production is completed, including, without limitation, ~~{a}~~ *an extra, best boy, boom operator, camera loader, camera operator, assistant camera operator, compositor, dialogue editor, film editor, assistant film editor, focus puller, Foley operator, Foley editor, gaffer, grip, key grip, lighting crew, lighting board operator, lighting technician, music editor, sound editor, sound effects editor, sound mixer, steadicam operator, first assistant camera operator, second assistant camera operator, digital imaging technician, camera operator working with a director of photography, electric best boy, grip best boy, dolly grip, rigging grip, assistant key for makeup, assistant key for hair, assistant script supervisor, set construction foreperson, lead set dresser, assistant key for wardrobe, scenic foreperson, assistant propmaster, assistant audio mixer, assistant boom person, assistant key for special effects and other similar personnel.* The term does not include above-the-line personnel.

Sec. 7. NRS 360.7583 is hereby amended to read as follows:

360.7583 "Nevada business" means a proprietorship, corporation, partnership, company, association, trust, unincorporated organization or other enterprise that:

1. Has a physical location and at least one full-time equivalent employee in this State ~~{-}~~, *as determined in accordance with section 3 of this act;* and

2. Is licensed to transact business in this State.

Sec. 8. NRS 360.7585 is hereby amended to read as follows:

360.7585 ~~{"Producer"}~~ *"Production company"* means a ~~{natural person or}~~ business that finances, arranges to finance or supervises the production of a qualified production.

Sec. 9. NRS 360.7586 is hereby amended to read as follows:

360.7586 1. "Qualified production" includes preproduction, production and postproduction and means:

- (a) A theatrical, direct-to-video or other media motion picture.
- (b) A made-for-television motion picture.
- (c) Visual effects or digital animation sequences.
- (d) A television pilot program.
- (e) Interstitial television programming.
- (f) A television, Internet or other media series, including, without limitation, a comedy, drama, miniseries, soap opera, talk show, *game show* or telenovela.

(g) *A reality show, if not less than six episodes are produced concurrently in this State and the total of the qualified direct production expenditures for those episodes is \$500,000 or more.*

(h) A national or regional commercial or series of commercials.

~~[(h)]~~ (i) An infomercial.

~~[(i)]~~ (j) An interstitial advertisement.

~~[(j)]~~ (k) A music video.

~~[(k)]~~ (l) A documentary film or series.

~~[(l)]~~ (m) Other visual media productions, including, without limitation, video games and mobile applications.

2. The term does not include:

- (a) A news, weather or current events program.
- (b) A production that is primarily produced for industrial, corporate or institutional use.
- (c) A telethon or any production that solicits money, other than a production which is produced for national distribution.
- (d) A political advertisement.
- (e) A sporting event.
- (f) A gala or awards show.
- (g) Any other type of production that is excluded by regulations adopted by the Office of Economic Development pursuant to NRS 360.759.

Sec. 10. NRS 360.759 is hereby amended to read as follows:

360.759 1. A ~~producer of a qualified production that is produced~~ *production company that produces a qualified production* in this State in whole or in part may ~~[, on or before December 31, 2017,]~~ apply to the Office of Economic Development for a certificate of eligibility for transferable tax credits for any qualified *direct production* expenditures. ~~[and production costs identified in NRS 360.7591.]~~ The transferable tax credits may be applied to:

- (a) Any tax imposed by chapters 363A and 363B of NRS;
- (b) The gaming license fees imposed by the provisions of NRS 463.370;
- (c) Any tax imposed pursuant to chapter 680B of NRS; or
- (d) Any combination of the fees and taxes described in paragraphs (a), (b) and (c).

2. The Office shall approve an application for a certificate of eligibility for transferable tax credits if the Office finds that the ~~producer of~~ *production company producing* the qualified production qualifies for the transferable tax credits pursuant to subsection 3 and shall calculate the estimated amount of the transferable tax credits pursuant to NRS 360.7592, 360.7593 and 360.7594.

3. To be eligible for transferable tax credits pursuant to this section, a ~~producer~~ *production company* must:

(a) Submit an application that meets the requirements of subsection 4;
 (b) Provide proof satisfactory to the Office that the qualified production is in the economic interest of the State;
 (c) Provide proof satisfactory to the Office that ~~50~~ 70 percent or more of the funding for the qualified production has been ~~placed in an escrow account or trust account for the benefit of the qualified production;~~ *obtained*;

(d) Provide proof satisfactory to the Office that at least 60 percent of the ~~total qualified~~ *direct production* expenditures ~~and production costs~~ for :

- (1) *Preproduction*;
- (2) *Production*; and

(3) *If any direct production expenditures for postproduction will be incurred in this State, postproduction,*
 ➤ of the qualified production ~~including preproduction and postproduction,~~ will be incurred in this State ~~as qualified direct production expenditures~~;

(e) ~~At the completion of the qualified production,~~ *Not later than 90 days after the completion of principal photography of the qualified production or, if any direct production expenditures for postproduction will be incurred in this State, not later than 90 days after the completion of postproduction,* provide the Office with an audit of the qualified production that includes an itemized report of qualified *direct production* expenditures ~~and production costs~~ which:

(1) Shows that the qualified production incurred qualified *direct production* expenditures ~~and production costs in this State~~ of \$500,000 or more; and

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

(f) Pay the cost of the audit required by paragraph (e); and

(g) Meet any other requirements prescribed by regulation pursuant to this section.

4. An application submitted pursuant to subsection 3 must contain:

- (a) A script, storyboard or synopsis of the qualified production;
- (b) The names of the *production company*, producer, director and proposed cast;
- (c) An estimated timeline to complete the qualified production;

(d) A ~~[detailed budget]~~ *summary of the budgeted expenditures* for the entire production, including projected ~~[expenses]~~ *expenditures to be incurred* outside of Nevada;

(e) Details regarding the financing of the project, including, without limitation, any information relating to a binding financing commitment, loan application, commitment letter or investment letter;

(f) An insurance certificate, binder or quote for general liability insurance of \$1,000,000 or more;

(g) The business address of the ~~[producer]~~ *production company*, which must be an address in this State;

(h) Proof that the qualified production meets any applicable requirements relating to workers' compensation insurance;

(i) Proof that the ~~[producer]~~ *production company* has secured all licenses required to do business in each location in this State at which the qualified production will be produced; and

(j) Any other information required by regulations adopted by the Office pursuant to subsection 8.

5. If the Office approves an application for a certificate of eligibility for transferable tax credits pursuant to this section, the Office shall immediately forward a copy of the certificate of eligibility which identifies the estimated amount of the tax credits available pursuant to NRS 360.7592 to:

(a) The applicant;

(b) The Department; and

(c) The State Gaming Control Board.

6. Within ~~[14]~~ 60 business days after receipt of an audit provided by ~~the producer]~~ *a production company* pursuant to paragraph (e) of subsection 3 and any other accountings or other information required by the Office, the Office shall determine whether to certify the audit and make a final determination of whether a certificate of transferable tax credits will be issued. If the Office certifies the audit and determines that all other requirements for the transferable tax credits have been met, the Office shall notify the ~~[producer]~~ *production company* that the transferable tax credits will be issued. Within 30 days after the receipt of the notice, the ~~[producer]~~ *production company* shall make an irrevocable declaration of the amount of transferable tax credits that will be applied to each fee or tax set forth in subsection 1, thereby accounting for all of the credits which will be issued. Upon receipt of the declaration, the Office shall issue to the ~~[eligible producer]~~ *production company* a certificate of transferable tax credits in the amount approved by the Office for the fees or taxes included in the declaration of the ~~[producer]~~ *production company*. The ~~[producer]~~ *production company* shall notify the Office upon transferring any of the transferable tax credits. The Office shall notify the Department and the State Gaming Control Board of all transferable tax credits issued, segregated by each fee or tax set forth in subsection 1, and the amount of any transferable tax credits transferred.

7. An applicant for transferable tax credits pursuant to this section shall, upon the request of the Executive Director of the Office, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 3.

8. The Office:

(a) Shall adopt regulations prescribing:

- (1) Any additional requirements to receive transferable tax credits;
- (2) Any additional qualified expenditures or production costs that may serve as the basis for transferable tax credits pursuant to NRS 360.7591;
- (3) Any additional information that must be included with an application pursuant to subsection 4;
- (4) The application review process;
- (5) Any type of qualified production which, due to obscene or sexually explicit material, is not eligible for transferable tax credits; and
- (6) The requirements for notice pursuant to NRS 360.7595; and

(b) May adopt any other regulations that are necessary to carry out the provisions of NRS 360.758 to 360.7598, inclusive ~~[]~~, *and sections 2 and 3 of this act.*

9. The Nevada Tax Commission and the Nevada Gaming Commission:

(a) Shall adopt regulations prescribing the manner in which transferable tax credits will be administered.

(b) May adopt any other regulations that are necessary to carry out the provisions of NRS 360.758 to 360.7598, inclusive ~~[]~~, *and sections 2 and 3 of this act.*

Sec. 11. NRS 360.7591 is hereby amended to read as follows:

360.7591 1. Qualified *direct production* expenditures ~~and production costs that may serve as a basis for transferable tax credits issued pursuant to NRS 360.7591~~ must be *for purchases, rentals or leases* of tangible personal property or services from a Nevada business on or after the date on which an applicant submits an application for the transferable tax credits, must be customary and reasonable and must relate to:

- (a) Set construction and operation;
- (b) Wardrobe and makeup;
- (c) Photography, sound and lighting;
- (d) Filming, film processing and film editing;
- (e) The rental or leasing of facilities, equipment and vehicles;
- (f) Food and lodging;
- (g) Editing, sound mixing, special effects, visual effects and other postproduction services;
- (h) The payroll for Nevada residents or other personnel who provided services in this State;
- (i) Payment for goods or services provided by a Nevada business;
- (j) The design, construction, improvement or repair of property, infrastructure, equipment or a production or postproduction facility;

(k) State and local government taxes to the extent not included as part of another cost reported pursuant to this section;

(l) Fees paid to a producer who is a Nevada resident; and

(m) Any other transaction, service or activity authorized in regulations adopted by the Office of Economic Development pursuant to NRS 360.759.

2. Expenditures and costs:

(a) Related to:

(1) The acquisition, transfer or use of transferable tax credits;

(2) Marketing and distribution;

(3) Financing, depreciation and amortization;

(4) The payment of any profits as a result of the qualified production;

(5) The payment for the cost of the audit required by NRS 360.759; and

(6) The payment for any goods or services that are not directly attributable to the qualified production;

(b) For which reimbursement is received, or for which reimbursement is reasonably expected to be received;

(c) *Which are paid to a joint venturer or a parent, subsidiary or other affiliate of the production company, unless the amount paid represents the fair market value of the purchase, rental or lease of the property or services for which payment is made;*

(d) Which provide a pass-through benefit to a person who is not a Nevada resident; or

~~{(d)}~~ (e) Which have been previously claimed as a basis for transferable tax credits,

↪ are not *qualified direct production expenditures* and are not eligible to serve as a basis for transferable tax credits issued pursuant to NRS 360.759.

3. *If any tangible personal property is acquired by a Nevada business from a vendor outside this State for immediate resale, rental or lease to a production company that produces a qualified production, expenditures incurred by the production company for the purchase, rental or lease of the property are qualified direct production expenditures if:*

(a) *The Nevada business regularly deals in property of that kind;*

(b) *The expenditures are otherwise qualified direct production expenditures under the provisions of this section; and*

(c) *Not more than 50 percent of the property purchased, rented or leased by the production company for the qualified production is acquired and purchased, rented or leased in the manner described in this subsection.*

Sec. 12. NRS 360.7592 is hereby amended to read as follows:

360.7592 1. Except as otherwise provided in subsection ~~{3}~~ 4 and NRS 360.7593 and 360.7594, the base amount of transferable tax credits issued to an eligible ~~{producer}~~ *production company* pursuant to NRS 360.759 must equal 15 percent of the ~~{cumulative}~~ *qualified direct production expenditures*. ~~{and production costs.}~~

2. Except as otherwise provided in ~~{subsection}~~ *subsections 3 and 4* and NRS 360.7594, in addition to the base amount calculated pursuant to

subsection 1, transferable tax credits issued to an eligible ~~[producer]~~ *production company* pursuant to NRS 360.759 must include credits in an amount equal to:

(a) An additional ~~[2]~~ 5 percent of the ~~[cumulative]~~ qualified *direct production* expenditures ~~[and production costs]~~ if more than 50 percent of the below-the-line personnel of the qualified production are Nevada residents; and

(b) An additional ~~[2]~~ 5 percent of the ~~[cumulative]~~ qualified *direct production* expenditures ~~[and production costs]~~ if more than 50 percent of the filming days of the qualified production occurred in a county in this State in which, in each of the 2 years immediately preceding the date of application, qualified productions incurred less than \$10,000,000 of *qualified* direct production expenditures.

3. *For the purposes of paragraph (a) of subsection 2:*

(a) *Except as otherwise provided in paragraph (b) of this subsection, the percentage of the below-the-line personnel who are Nevada residents must be determined by dividing the number of workdays worked by Nevada residents by the number of workdays worked by all below-the-line personnel.*

(b) *Any work performed by an extra must not be considered in determining the percentage of the below-the-line personnel who are Nevada residents.*

4. The Office may:

(a) Reduce the cumulative amount of transferable tax credits that are calculated pursuant to this section by an amount equal to any damages incurred by the State or any political subdivision of the State as a result of a qualified production that is produced in this State; or

(b) Withhold the transferable tax credits, in whole or in part, until any pending legal action in this State against a ~~[producer]~~ *production company* or involving a qualified production is resolved.

Sec. 13. NRS 360.7593 is hereby amended to read as follows:

360.7593 1. In calculating the base amount of transferable tax credits pursuant to subsection 1 of NRS 360.7592:

(a) Wages and salaries, including fringe benefits, paid to above-the-line personnel who are not Nevada residents must be included in the calculation at a rate of 12 percent.

(b) Wages and salaries, including fringe benefits, paid to below-the-line personnel who are not Nevada residents:

(1) For the period beginning January 1, 2014, and ending December 31, ~~[2015,]~~ 2014, must be included in the calculation at a rate of 12 percent.

(2) For the period beginning January 1, ~~[2016,]~~ 2015, and ending December 31, ~~[2016,]~~ 2015, must be included in the calculation at a rate of 10 percent.

(3) For the period beginning January 1, ~~[2017,]~~ 2016, and ending December 31, ~~[2017,]~~ 2016, must be included in the calculation at a rate of 8 percent.

(4) *For the period beginning January 1, 2017, must not be included in the calculation.*

2. As used in this section, "fringe benefits" means employee expenses paid by an employer for the use of a person's services, including, without limitation, payments made to a governmental entity, union dues, health insurance premiums, payments to a pension plan and payments for workers' compensation insurance.

Sec. 14. NRS 360.7594 is hereby amended to read as follows:

360.7594 1. Except as otherwise provided in this subsection, the Office of Economic Development shall not approve any application for transferable tax credits submitted pursuant to NRS 360.759 ~~[-~~

~~-(a) If~~ if approval of the application would cause the total amount of transferable tax credits approved pursuant to NRS 360.759 *for the current fiscal year* to exceed ~~[\$10,000,000.~~

~~-(b) Received on or after January 1, 2018.]~~ *the amount appropriated or authorized for expenditure for that purpose for that fiscal year. If the Office does not approve transferable tax credits of the full amount so appropriated or authorized during any fiscal year, the remaining amount of transferable tax credits must be carried forward and made available for approval during the immediately following 2 fiscal years.*

2. The transferable tax credits issued to any ~~[producer]~~ *production company* for any qualified production pursuant to NRS 360.759:

(a) Must not exceed a total amount of \$6,000,000; and

(b) Expire 4 years after the date on which the transferable tax credits are issued to the ~~[producer.]~~ *production company.*

3. For the purposes of calculating qualified *direct production* expenditures : ~~[and production costs.]~~

(a) The compensation payable to all producers who are Nevada residents must not exceed 10 percent of the portion of the total budget of the qualified production that was expended in or attributable to any expenses incurred in this State.

(b) The compensation payable to all producers who are not Nevada residents must not exceed 5 percent of the portion of the total budget of the qualified production that was expended in or attributable to any expenses incurred in this State.

(c) The compensation payable to any employee, independent contractor or any other person paid a wage or salary as compensation for providing labor services on the production of the qualified production must not exceed \$750,000.

Sec. 15. NRS 360.7595 is hereby amended to read as follows:

360.7595 1. ~~[An application for a certificate of eligibility for transferable tax credits submitted pursuant to NRS 360.759 must be submitted not earlier than 90 days before the date of commencement of principal photography of the qualified production, if any. The Office of Economic Development shall prescribe by regulation the procedure for~~

~~determining the date of commencement of qualified productions that do not include photography for the purposes of this section.~~

~~—2.]~~ If the Office of Economic Development receives an application for transferable tax credits pursuant to NRS 360.759, the Office shall, not later than ~~[30]~~ 10 days before a hearing on the application, provide notice of the hearing to:

- (a) The applicant;
- (b) The Department; and
- (c) The State Gaming Control Board.

~~[3.]~~ 2. The notice required by this section must set forth the date, time and location of the hearing on the application. The date of the hearing must be not later than 60 days after the Office receives the completed application.

~~[4.]~~ 3. The Office shall issue a decision on the application not later than 30 days after the conclusion of the hearing on the application.

~~[5.—The producer of]~~

4. *Except as otherwise provided in this subsection, if the application is approved, principal photography of the qualified production must begin not more than 90 days after the date on which the decision on the application is issued. The Office of Economic Development:*

(a) Shall prescribe by regulation the procedure for determining the date of commencement of qualified productions that do not include photography for the purposes of this section.

(b) May extend by not more than 90 days the period otherwise prescribed by this subsection.

5. *A production company that produces a qualified production shall submit ~~[all accountings]~~ the audit required by NRS 360.759 and all other required information to the Office and the Department ~~[not later than 30 days after completion of the qualified production.]~~ within the time required by paragraph (e) of subsection 3 of NRS 360.759. Production of the qualified production must be completed within ~~[1 year]~~ 18 months after the date of commencement of principal photography. If the Office or the Department determines that information submitted pursuant to this subsection is incomplete, the ~~[producer]~~ production company shall, not later than 30 days after receiving notice that the information is incomplete, provide to the Office or the Department, as applicable, all additional information required by the Office or the Department.*

6. The Office shall give priority to the approval and processing of an application ~~[submitted by the producer of]~~ relating to a qualified production that promotes tourism in the State of Nevada.

Sec. 16. NRS 360.7596 is hereby amended to read as follows:

360.7596 1. For the purpose of encouraging local economic development, the governing body of a city or county may ~~[, on or before December 31, 2017,]~~ grant to a ~~[producer of]~~ production company that produces a qualified production for which a certificate of eligibility for transferable tax credits has been approved pursuant to NRS 360.759 an

abatement of all or any percentage of the amount of any permitting fee or licensing fee which the local government is authorized to impose or charge pursuant to chapter 244 or 268 of NRS.

2. Before granting any abatement pursuant to this section, the governing body of the city or county must provide by ordinance for a pilot project for granting abatements to ~~[producers of qualified productions]~~ *production companies* for which a certificate of eligibility for transferable tax credits has been approved pursuant to NRS 360.759.

3. A governing body of a city or county that grants an abatement pursuant to this section shall, on or before October 1 of each year in which such an abatement is granted, prepare and submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature an annual report which includes, for the immediately preceding fiscal year:

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

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

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

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

Sec. 17. NRS 360.7597 is hereby amended to read as follows:

360.7597 1. A ~~[producer]~~ *production company* that is found to have submitted any false statement, representation or certification in any document submitted for the purpose of obtaining transferable tax credits or who otherwise becomes ineligible for transferable tax credits after receiving the transferable tax credits pursuant to NRS 360.759 shall repay to the Department or the State Gaming Control Board, as applicable, any portion of the transferable tax credits to which the ~~[producer]~~ *production company* is not entitled.

2. Transferable tax credits purchased in good faith are not subject to forfeiture *or repayment by the transferee* unless the transferee submitted fraudulent information in connection with the purchase.

Sec. 18. NRS 360.7598 is hereby amended to read as follows:

360.7598 The Office of Economic Development shall, on or before October 1 of each year, prepare and submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature an annual report which includes, for the immediately preceding fiscal year:

1. The number of applications submitted for transferable tax credits pursuant to NRS 360.759;

2. The number of qualified productions for which transferable tax credits were approved;

3. The amount of transferable tax credits approved;

4. The amount of transferable tax credits used;
5. The amount of transferable tax credits transferred;
6. The amount of transferable tax credits taken against each allowable fee or tax, including the actual amount used and outstanding, in total and for each qualified production;
7. The total amount of the qualified ~~[expenses and production costs]~~ *direct production expenditures* incurred by each qualified production and the portion of those ~~[expenses and costs]~~ *expenditures* that were incurred in Nevada;
8. The number of persons in Nevada employed by each qualified production and the amount of wages paid to those persons; and
9. The period during which each qualified production was in Nevada and employed persons in Nevada.

Sec. 19. Section 19 of chapter 491, Statutes of Nevada 2013, at page 3097, is hereby amended to read as follows:

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

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

Sec. 20. The amendatory provisions of sections 12, 13 and 14 of this act apply only to a calculation of transferable tax credits conducted on or after July 1, 2015.

Sec. 21. 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. 22. This act becomes effective on July 1, 2015.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 434 to Senate Bill No. 94 revises the definition of "below-the-line personnel" to restore several job titles specified under current law that were proposed to be deleted in the bill as introduced.

The specific job titles are compositor, dialogue editor, film editor, assistant film editor, focus puller, Foley operator, Foley editor, music editor, sound editor, sound effects editor and camera operator working with a director of photography.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 138.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 450.

SUMMARY—Revises provisions governing the forfeiture of property.
(BDR 14-222)

AN ACT relating to criminal procedure; ~~[establishing a uniform procedure for the criminal forfeiture of property used or obtained in certain crimes;~~

~~providing for the distribution of forfeited property and proceeds from the sale of such property;]~~ requiring the reporting of certain information relating to the forfeiture of property; ~~[revising provisions authorizing the forfeiture of property; repealing certain provisions governing the seizure, forfeiture and disposition of property and proceeds;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the seizure, forfeiture and disposition of certain property and proceeds attributable to the commission of certain crimes. (NRS 179.1156-179.121) Existing law separately provides for the seizure, forfeiture and disposition of property and proceeds attributable to any technological crime which is punishable as a felony. (NRS 179.1211-179.1235) Finally, existing law provides for the seizure, forfeiture and disposition of property and proceeds attributable to racketeering crimes. (NRS 207.350-207.520) ~~[Section 52 of this bill repeals the existing statutory scheme for the seizure, forfeiture and disposition of property and proceeds.~~

~~Sections 2-31 of this bill enact a new statutory scheme, under the jurisdiction of the courts presiding over criminal proceedings, governing the seizure, forfeiture and disposition of property and proceeds attributable to certain crimes. Section 12 provides that property is subject to forfeiture only if the underlying crime provides for such forfeiture, and there is: (1) proof of a criminal conviction; (2) a plea agreement; or (3) an agreement by the parties. Section 12 also requires the State to establish that seized property is forfeitable by clear and convincing evidence. Sections 16 and 17 provide for the seizure of property for which forfeiture is sought by a court order, or without a court order if: (1) the seizure is pursuant to a lawful arrest; (2) the property has been the subject of a prior judgment in the favor of the State; or (3) there is probable cause to believe that a delay would result in the removal or destruction of the property.~~

~~Sections 21 and 22 authorize a person to: (1) file a petition for the remission or mitigation of a forfeiture; and (2) seek a pretrial hearing to determine the validity of the seizure. Section 27 provides that the property of an innocent owner may not be forfeited and sets forth a process for determining whether a person is an innocent owner. Section 28 provides that any forfeited currency or property auction proceeds must only: (1) be used to pay all outstanding liens on the property; (2) be used to pay reasonable expenses, except personnel costs; and (3) be deposited, if any funds remain, in the State General Fund. Section 30] This bill requires each law enforcement agency to submit an annual report containing certain information relating to the seizure, forfeiture and disposition of property to the Office of the Attorney General. [Sections 32-51 of this bill revise existing law authorizing the forfeiture of property attributable to certain crimes to incorporate references to the new procedures for forfeiture pursuant to sections 2-31.]~~

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 31, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 2. ~~[As used in sections 2 to 31, inclusive, of this act, 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. ~~["Actual knowledge" means direct and clear awareness of information, a fact or a condition.] (Deleted by amendment.)~~

Sec. 4. ~~["Constructive knowledge" means knowledge that is imputed to family or household members of a defendant if the defendant had been adjudicated guilty three or more times for the same or specified similar violation in the 10 years immediately preceding the alleged violation.] (Deleted by amendment.)~~

Sec. 5. ~~["Contraband" means goods that are unlawful to import, export or possess.] (Deleted by amendment.)~~

Sec. 6. ~~["Conveyance" means a device used for transportation and includes, without limitation, a motor vehicle, trailer, snowmobile, airplane and vessel, and any equipment attached to it. The term does not include property that is stolen or taken in violation of the law.] (Deleted by amendment.)~~

Sec. 7. ~~["Instrumentality" means property otherwise lawful to possess that is used in a crime. The term includes, without limitation, a tool, firearm, conveyance, computer, computer software, telecommunications device, money and any other means of exchange.] (Deleted by amendment.)~~

Sec. 8. ~~["Law subject to forfeiture" means a statute for which forfeiture is prescribed for a violation of the statute.] (Deleted by amendment.)~~

Sec. 9. ~~[The Legislature finds and declares that the public policy of this State concerning forfeiture of property is to:~~

- ~~1. Deter criminal activity by reducing its economic incentives;~~
- ~~2. Increase the pecuniary loss from engaging in criminal activity;~~
- ~~3. Protect against the wrongful forfeiture of property; and~~
- ~~4. Ensure that only criminal forfeiture is allowed in this State.] (Deleted by amendment.)~~

Sec. 10. ~~[The provisions of sections 2 to 31, inclusive, of this act govern the seizure, forfeiture and disposition of all property and proceeds subject to forfeiture.] (Deleted by amendment.)~~

Sec. 11. ~~[1. When a person is convicted of violating a law subject to forfeiture, the court, consistent with the provisions of sections 2 to 31, inclusive, of this act, may order the person to forfeit:~~

- ~~(a) Property the person derived directly from the commission of the crime;~~
- ~~(b) Property directly traceable to property described in paragraph (a);~~
- ~~and~~
- ~~(c) Instrumentalities the person used in the commission of the crime.~~

~~2. Property and instrumentalities subject to forfeiture are limited to:~~
~~(a) Land, buildings, containers, conveyances, equipment, materials, products, money, securities and negotiable instruments; and~~
~~(b) Ammunition, firearms and accessories used in the furtherance or commission of a violation of a law subject to forfeiture.] (Deleted by amendment.)~~

Sec. 12. ~~[1. Property is subject to forfeiture only if the violation is of a law subject to forfeiture and the violation is established by:~~

~~(a) Proof of a criminal conviction;~~
~~(b) Part of a plea agreement approved by the presiding criminal court; or~~
~~(c) Agreement by the parties.~~

~~2. The State must establish that seized property is forfeitable by clear and convincing evidence.] (Deleted by amendment.)~~

Sec. 13. ~~[Upon the State's motion following conviction, the court may order the forfeiture of substitute property owned by the defendant up to the value of unreachable property if the State proves by a preponderance of the evidence that the defendant intentionally transferred, sold or deposited property with a third party to avoid the court's jurisdiction.] (Deleted by amendment.)~~

Sec. 14. ~~[The State may not seek personal money judgments or other remedies not provided by sections 2 to 31, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 15. ~~[A defendant is not jointly and severally liable for forfeiture awards owed by other defendants. If ownership of property is unclear, a court may order each defendant to forfeit property on a pro rata basis or any other means the court finds equitable.] (Deleted by amendment.)~~

Sec. 16. ~~[At the request of the State, at any time, a court may issue an ex parte preliminary order to seize or secure property for which forfeiture is sought and to provide for its custody.] (Deleted by amendment.)~~

Sec. 17. ~~[Property subject to forfeiture may be seized at any time without a court order if:~~

~~1. The seizure is incident to a lawful arrest or a lawful search;~~
~~2. The property subject to seizure has been the subject of a prior judgment in favor of the State; or~~
~~3. The State has probable cause to believe that the delay occasioned by the necessity to obtain a court order would result in the removal or destruction of the property and that the property is forfeitable pursuant to sections 2 to 31, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 18. ~~[When property is seized, the law enforcement agency seizing the property shall:~~

~~1. Give an itemized receipt to the person possessing the property; or~~
~~2. In the absence of a person possessing the property, leave such a receipt in the place where the property was found, if reasonably possible.] (Deleted by amendment.)~~

Sec. 19. ~~[1. At the time of the seizure of property or the entry of a restraining order relating to the property, the State acquires provisional title to the seized property. Provisional title authorizes the State to hold and protect the property.~~

~~2. Title to the property vests with the State when the trier of fact renders a final forfeiture verdict and relates back to the time when the State acquired provisional title to the property. However, such title is subject to claims by third parties adjudicated pursuant to sections 2 to 31, inclusive, of this act.]~~
(Deleted by amendment.)

Sec. 20. ~~[1. If the owner of seized property seeks its return before the criminal trial, the owner may post bond or give substitute property equal to the fair market value of the seized property at the time the bond amount is determined. On the posting of a bond or the giving of substitute property, the State shall return the seized property to the owner within a reasonable period not to exceed 5 business days. The forfeiture action may then proceed against the bond or substitute property.~~

~~2. This section does not apply to property reasonably held for investigatory purposes.]~~ (Deleted by amendment.)

Sec. 21. ~~[1. Before the entry of a court order disposing of a forfeiture action pursuant to sections 2 to 31, inclusive, of this act, any person who has an interest in seized property may file with the Attorney General a petition for remission or mitigation of the forfeiture.~~

~~2. The Attorney General or the Attorney General's designee shall remit or mitigate the forfeiture upon reasonable terms and conditions if the Attorney General or the Attorney General's designee finds that:~~

~~(a) The petitioner did not intend to violate the law subject to forfeiture; or~~

~~(b) Extenuating circumstances justify the remission or mitigation of the forfeiture.]~~ (Deleted by amendment.)

Sec. 22. ~~[1. After the seizure of property pursuant to sections 2 to 31, inclusive, of this act, a defendant or third party has a right to a pretrial hearing to determine the validity of the seizure.~~

~~2. The claimant may claim, at least 60 days before the trial of the related crime, the right to possession of property by motion to the court.~~

~~3. The claimant shall file a motion establishing the validity of the alleged interest in the property.~~

~~4. The court may hear the motion not more than 30 days after the motion is filed.~~

~~5. The State shall file an answer showing probable cause for the seizure, or cross motions, at least 10 days before the hearing.~~

~~6. The court shall grant the motion if it finds that:~~

~~(a) It is likely the final judgment will be that the State must return the property to the claimant; or~~

~~(b) The property is the only reasonable means for a defendant to pay for legal representation in the forfeiture or related criminal proceeding. At the court's discretion, the court may order the return of funds or property~~

~~sufficient to obtain legal counsel, but less than the total amount seized, and require an accounting.~~

~~7. The court may order the State to give security for satisfaction of any judgment, including damages, that may be rendered in the action or order other relief as may be just.] (Deleted by amendment.)~~

Sec. 23. ~~[The local rules of practice adopted in the judicial district where the action is pending, to the extent they are not inconsistent with state law, apply to discovery pursuant to sections 2 to 31, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 24. ~~[The litigation related to the forfeiture of property must be held in a single proceeding following the trial of the related crime.] (Deleted by amendment.)~~

Sec. 25. ~~[1. At any time after a determination by the trier of fact, the defendant may petition the court to determine whether the forfeiture is unconstitutionally excessive under the Nevada Constitution or the United States Constitution.~~

~~2. The defendant has the burden of establishing the forfeiture is grossly disproportional to the seriousness of the related crime by a preponderance of the evidence at a hearing conducted by the court without a jury.~~

~~3. In determining whether the forfeiture of property is unconstitutionally excessive, the court may consider all relevant factors, including, without limitation:~~

~~(a) The seriousness of the related crime and its impact on the community, including, without limitation, the duration of the activity and the harm caused by the defendant;~~

~~(b) The extent to which the defendant participated in the related crime;~~

~~(c) The extent to which the property was used in committing the related crime;~~

~~(d) The sentence imposed for committing the related crime; and~~

~~(e) Whether the related crime was completed or attempted.~~

~~4. In determining the value of the property subject to forfeiture, the court may consider relevant factors, including, without limitation:~~

~~(a) The fair market value of the property;~~

~~(b) The value of the property to the defendant, including hardship to the defendant if the forfeiture is realized; and~~

~~(c) The hardship from the loss of a primary residence, motor vehicle or other property to the defendant's family members or others if the property is forfeited.~~

~~5. The court may not consider the value of the property to the State in determining whether the forfeiture of the property is constitutionally excessive.] (Deleted by amendment.)~~

Sec. 26. ~~[1. A bona fide security interest in any property is not subject to forfeiture unless the person claiming a security interest in the property had actual knowledge that the property was subject to forfeiture at the time~~

~~that the property was seized or restrained pursuant to sections 2 to 31, inclusive, of this act.~~

~~2. A person claiming a security interest:~~

~~(a) Bears the burden of production; and~~

~~(b) Must establish the validity of the interest by a preponderance of the evidence.] (Deleted by amendment.)~~

Sec. 27. ~~[The property of an innocent owner may not be forfeited. The process for determining whether a person is an innocent owner is as follows:~~

~~1. A person who has any interest, including, without limitation, joint tenancy, tenancy in common or tenancy by the entirety, in property subject to forfeiture that existed at the time the unlawful conduct giving rise to the forfeiture occurred and who claims to be an innocent owner has the burden of production to show that the person has a legal right, title or interest in the property seized pursuant to sections 2 to 31, inclusive, of this act.~~

~~2. The State shall summarily return the property subject to forfeiture to a person who is an innocent owner if the property in which the person has an interest is a:~~

~~(a) Homestead declared pursuant to chapter 115 of NRS; or~~

~~(b) Vehicle if the equity in the vehicle is less than \$15,000.~~

~~3. If subsection 1 is satisfied and the State seeks to proceed with the forfeiture against the property, other than property listed in subsection 2, the State must prove by a preponderance of the evidence that the person had actual or constructive knowledge of the unlawful conduct giving rise to the forfeiture.~~

~~4. A person who acquired an ownership interest in property after the unlawful conduct giving rise to the forfeiture occurred and who claims to be an innocent owner has the burden of production to show that the person has legal right, title or interest in the property seized pursuant to sections 2 to 31, inclusive, of this act.~~

~~5. If subsection 4 is satisfied and the State seeks to proceed with the forfeiture against the property, the State must prove by a preponderance of the evidence that at the time the person acquired the property interest, the person had actual knowledge or constructive knowledge that the property was subject to forfeiture or was not a bona fide purchaser without notice of any defect in title and for valuable consideration.~~

~~6. If the State fails to meet its burden pursuant to subsection 3 or 5, the court shall:~~

~~(a) Find that the person is an innocent owner; and~~

~~(b) Order the State to relinquish all claims of title to the property.]~~

~~(Deleted by amendment.)~~

Sec. 28. ~~[1. If unclaimed property or contraband held for evidentiary purposes is no longer needed for that purpose, the court may order that:~~

~~(a) Such property be delivered to the State Treasurer within 30 days after the order; or~~

~~(b) Such contraband be destroyed within 30 days after the order.~~

~~2. If a forfeiture is granted pursuant to section 11 of this act, the court may order that the property be delivered to the State Treasurer within 30 days after the order.~~

~~3. Upon motion, the court may order that a portion of any currency seized or proceeds from public auction be used to pay reasonable expenses, except personnel costs, related to the seizure, storage and maintenance of custody of any forfeited items.~~

~~4. The State Treasurer shall dispose of all forfeited property that is not currency at public auction.~~

~~5. Any auction proceeds and forfeited currency must be used only:~~

~~(a) To pay all outstanding recorded liens on the forfeited property;~~

~~(b) To comply with an order of the court to pay reasonable expenses, except personnel costs; and~~

~~(c) If any amounts remain after satisfying the purposes set forth in paragraphs (a) and (b), to be deposited into the State General Fund.]~~

~~(Deleted by amendment.)~~

Sec. 29. ~~[A law enforcement agency shall not:~~

~~1. Retain forfeited property for its own use; or~~

~~2. Sell forfeited property directly or indirectly to:~~

~~(a) An employee of the law enforcement agency;~~

~~(b) A person related to an employee of the law enforcement agency by blood or marriage; or~~

~~(c) Another law enforcement agency.] (Deleted by amendment.)~~

Sec. 30. Chapter 179 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On an annual basis, each law enforcement agency shall report the following information about each individual seizure and forfeiture completed by the law enforcement agency under state ~~for federal~~ forfeiture law:

(a) Data on seizures and forfeitures, including, without limitation, the:

(1) Date that currency, vehicles, houses or other types of property were seized;

(2) Type of property seized, including, the year, make and model, as applicable;

(3) Type of crime associated with the seizure of the property;

(4) Market value of the property seized;

(5) Disposition of the property following the seizure; and

(6) Date of the disposition of the property.

(b) Data on the use of proceeds ~~from any public auction,~~ including, without limitation, the:

(1) Payment of all outstanding liens on the forfeited property;

(2) Payment of reasonable expenses, except personnel costs, of the seizure, storage and maintenance of custody of any forfeited property; and

(3) ~~Funds deposited into the State General Fund.] Distribution of proceeds pursuant to NRS 179.118, 179.1187, 179.1233 and 207.500.~~

(c) Any other information required by the Office of the Attorney General.

2. The Office of the Attorney General shall develop standard forms, processes and deadlines for the entry of electronic data for the annual submission of the report required by subsection 1.

3. Each law enforcement agency shall file with the Office of the Attorney General the report required by subsection 1. ~~The law enforcement agency shall file separate reports for forfeitures completed under state and federal forfeiture law.~~ A null report must be filed by a law enforcement agency that did not engage in a seizure or forfeiture during the reporting period. The Office of the Attorney General shall compile the submissions and issue an aggregate report of all forfeitures in this State.

4. On or before April 1 of each year, the Office of the Attorney General shall make available:

(a) On its Internet website, the reports submitted by law enforcement agencies and the aggregate report.

(b) Upon request, printed copies of the reports submitted by law enforcement agencies and the aggregate report.

5. The Office of the Attorney General shall include in the aggregate report information on any law enforcement agencies not in compliance with this section. ~~Any law enforcement agency that is not in compliance with this section as determined by the Office of the Attorney General may not receive any money from any forfeiture pursuant to sections 2 to 31, inclusive, of this act.~~

Sec. 30.3. NRS 179.1156 is hereby amended to read as follows:

179.1156 Except as otherwise provided in NRS 179.1211 to 179.1235, inclusive, and 207.350 to 207.520, inclusive, the provisions of NRS 179.1156 to 179.121, inclusive, and section 30 of this act govern the seizure, forfeiture and disposition of all property and proceeds subject to forfeiture.

Sec. 30.7. NRS 179.1157 is hereby amended to read as follows:

179.1157 As used in NRS 179.1156 to 179.119, inclusive, and section 30 of this act, unless the context otherwise requires, the words and terms defined in NRS 179.1158 to 179.11635, inclusive, have the meanings ascribed to them in those sections.

~~Sec. 31. 1. The State shall return seized property to the owner within a reasonable period not to exceed 5 days after:~~

~~— (a) The court finds that the owner has a bona fide security interest;~~

~~— (b) The court finds that the owner was an innocent owner pursuant to section 27 of this act;~~

~~— (c) The acquittal or dismissal of the criminal charge that is the basis of the forfeiture proceedings; or~~

~~— (d) The disposal of the criminal charge that is the basis of the forfeiture proceedings.~~

~~2. The State is responsible for any damages, storage fees and related costs applicable to property returned pursuant to subsection 1.~~ (Deleted by amendment.)

Sec. 32. ~~[NRS 179.1152 is hereby amended to read as follows:~~

~~179.1152 1. If a peace officer:~~

~~(a) Has detained a person pursuant to NRS 171.123, has arrested a person pursuant to any statutory provision authorizing or requiring the arrest of a person or is investigating a crime for which a suspect:~~

~~— (1) Has not been identified; or~~

~~— (2) Has been identified but was not reasonably believed by the peace officer to possess or control a prepaid or stored value card before the peace officer lawfully obtained possession of a prepaid or stored value card;~~

~~(b) Has lawfully obtained possession of a prepaid or stored value card; and~~

~~(c) Has probable cause to believe that the prepaid or stored value card represents the proceeds of a crime or has been used, is being used or is intended for use in the commission of a crime;~~

~~— the peace officer may use an electronic device, a necessary electronic communications network or any other reasonable means to determine the name, personal information and amount of funds associated with the prepaid or stored value card.~~

~~2. The Attorney General, the Attorney General's designee or any state or local law enforcement agency in this State may enter into a contract with any person to assist in carrying out the provisions of this section.~~

~~3. Before entering into a contract pursuant to subsection 2, the Attorney General, the Attorney General's designee or a state or local law enforcement agency shall consider the following factors:~~

~~(a) The functional benefits to all law enforcement agencies in this State of maintaining either a single database or a series of interlinked databases relating to possible criminal use of prepaid or stored value cards;~~

~~(b) The overall costs of establishing and maintaining such a database or databases;~~

~~(c) Any other factors that the Attorney General, the Attorney General's designee or the state or local law enforcement agency believe to be relevant.~~

~~4. Any contract entered into pursuant to this section:~~

~~(a) May be a sole source contract, not subject to the rules and requirements of open competitive bidding, if the period of the contract does not exceed 5 years; and~~

~~(b) Must indemnify and hold harmless any person who enters into a contract pursuant to this section, and any officers, employees or agents of that person, for claims for actions taken at the direction of a law enforcement agency in this State and within the scope of the contract.~~

~~5. As used in this section:~~

~~(a) "Prepaid or stored value card" means any instrument or device used to access funds or monetary value represented in digital electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferable electronically.~~

~~— (b) "Proceeds" [has the meaning ascribed to it in NRS 179.1161.] means any property, or that part of an item of property, derived directly or indirectly from the commission or attempted commission of a crime.]~~
 (Deleted by amendment.)

Sec. 33. ~~[NRS 31.840 is hereby amended to read as follows:~~

~~— 31.840 [Except as provided in NRS 179.1171, the] The plaintiff in an action to recover the possession of personal property may, at the time of issuing the summons, or at any time before answer, claim the delivery of such property to the plaintiff as provided in this chapter.]~~ (Deleted by amendment.)

Sec. 34. ~~[NRS 115.010 is hereby amended to read as follows:~~

~~— 115.010 1. The homestead is not subject to forced sale on execution or any final process from any court, except as otherwise provided by subsections 2, 3 and 5, and NRS 115.090 and except as otherwise required by federal law.~~

~~— 2. The exemption provided in subsection 1 extends only to that amount of equity in the property held by the claimant which does not exceed \$550,000 in value, unless allodial title has been established and not relinquished, in which case the exemption provided in subsection 1 extends to all equity in the dwelling, its appurtenances and the land on which it is located.~~

~~— 3. Except as otherwise provided in subsection 4, the exemption provided in subsection 1 does not extend to process to enforce the payment of obligations contracted for the purchase of the property, or for improvements made thereon, including any mechanic's lien lawfully obtained, or for legal taxes, or for:~~

~~— (a) Any mortgage or deed of trust thereon executed and given, including, without limitation, any second or subsequent mortgage, mortgage obtained through refinancing, line of credit taken against the property and a home equity loan; or~~

~~— (b) Any lien to which prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070, or by both husband and wife, when that relation exists.~~

~~— 4. If allodial title has been established and not relinquished, the exemption provided in subsection 1 extends to process to enforce the payment of obligations contracted for the purchase of the property, and for improvements made thereon, including any mechanic's lien lawfully obtained, and for legal taxes levied by a state or local government, and for:~~

~~— (a) Any mortgage or deed of trust thereon; and~~

~~— (b) Any lien even if prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070;~~

~~— unless a waiver for the specific obligation to which the judgment relates has been executed by all allodial titleholders of the property.~~

~~— 5. Establishment of allodial title does not exempt the property from forfeiture pursuant to [NRS 179.1156 to 179.121, inclusive, 179.1211 to 179.1235, inclusive, or 207.350 to 207.520, inclusive.] sections 2 to 31, inclusive, of this act.~~

~~— 6. Any declaration of homestead which has been filed before July 1, 2007, shall be deemed to have been amended on that date by extending the homestead exemption commensurate with any increase in the amount of equity held by the claimant in the property selected and claimed for the exemption up to the amount permitted by law on that date, but the increase does not impair the right of any creditor to execute upon the property when that right existed before July 1, 2007.] (Deleted by amendment.)~~

Sec. 35. ~~[NRS 200.760 is hereby amended to read as follows:~~

~~200.760 All assets derived from or relating to any violation of NRS 200.366, 200.710 to 200.730, inclusive, or 201.230 are subject to forfeiture. A proceeding for their forfeiture may be brought pursuant to [NRS 179.1156 to 179.119, inclusive.] sections 2 to 31, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 36. ~~[NRS 201.351 is hereby amended to read as follows:~~

~~201.351 [1.] All assets derived from or relating to any violation of NRS 201.300 or 201.320 are subject to forfeiture pursuant to [NRS 179.121 and a proceeding for their forfeiture may be brought pursuant to NRS 179.1156 to 179.121, inclusive.~~

~~— 2. In any proceeding for forfeiture brought pursuant to NRS 179.1156 to 179.121, inclusive, the plaintiff may apply for, and a court may issue without notice or hearing, a temporary restraining order to preserve property which would be subject to forfeiture pursuant to this section if:~~

~~— (a) The forfeitable property is in the possession or control of the party against whom the order will be entered; and~~

~~— (b) The court determines that the nature of the property is such that it can be concealed, disposed of or placed beyond the jurisdiction of the court before a hearing on the matter.~~

~~— 3. A temporary restraining order which is issued without notice may be issued for not more than 30 days and may be extended only for good cause or by consent. The court shall provide notice and hold a hearing on the matter before the order expires.~~

~~— 4. Any proceeds derived from a forfeiture of property pursuant to this section and remaining after the distribution required by subsection 1 of NRS 179.118 must be deposited with the county treasurer and distributed to programs for the prevention of child prostitution or for services to victims which are designated to receive such distributions by the district attorney of the county.] sections 2 to 31, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 37. ~~[NRS 202.257 is hereby amended to read as follows:~~

~~202.257 1. It is unlawful for a person who:~~

~~— (a) Has a concentration of alcohol of 0.10 or more in his or her blood or breath; or~~

~~— (b) Is under the influence of any controlled substance, or is under the combined influence of intoxicating liquor and a controlled substance, or any person who inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him or her incapable of safely exercising actual physical control of a firearm;~~

~~— to have in his or her actual physical possession any firearm. This prohibition does not apply to the actual physical possession of a firearm by a person who was within the person's personal residence and had the firearm in his or her possession solely for self defense.~~

~~— 2. Any evidentiary test to determine whether a person has violated the provisions of subsection 1 must be administered in the same manner as an evidentiary test that is administered pursuant to NRS 484C.160 to 484C.250, inclusive, except that submission to the evidentiary test is required of any person who is directed by a police officer to submit to the test. If a person to be tested fails to submit to a required test as directed by a police officer, the officer may direct that reasonable force be used to the extent necessary to obtain the samples of blood from the person to be tested, if the officer has reasonable cause to believe that the person to be tested was in violation of this section.~~

~~— 3. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.~~

~~— 4. A firearm is subject to forfeiture pursuant to [NRS 179.1156 to 179.119, inclusive,] sections 2 to 31, inclusive, of this act only if, during the violation of subsection 1, the firearm is brandished, aimed or otherwise handled by the person in a manner which endangered others.~~

~~— 5. As used in this section, the phrase "concentration of alcohol of 0.10 or more in his or her blood or breath" means 0.10 gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his or her breath.] (Deleted by amendment.)~~

~~Sec. 38. [NRS 205A.060 is hereby amended to read as follows:~~

~~205A.060 The Board shall:~~

~~— 1. Facilitate cooperation between state, local and federal officers in detecting, investigating and prosecuting technological crimes;~~

~~— 2. Establish, support and assist in the coordination of activities between two multiagency task forces on technological crime, one based in Reno and one based in Las Vegas, consisting of investigators and forensic examiners who are specifically trained to investigate technological crimes;~~

~~— 3. Coordinate and provide training and education for members of the general public, private industry and governmental agencies, including, without limitation, law enforcement agencies, concerning the statistics and methods of technological crimes and how to prevent, detect and investigate technological crimes.~~

~~4. Assist the Division of Enterprise Information Technology Services of the Department of Administration in securing governmental information systems against illegal intrusions and other criminal activities.~~

~~5. Evaluate and recommend changes to the existing civil and criminal laws relating to technological crimes in response to current and projected changes in technology and law enforcement techniques.~~

~~6. [Distribute money deposited pursuant to NRS 179.1233 into the Account for the Technological Crime Advisory Board in accordance with the provisions of NRS 205A.090.~~

~~7.] Authorize the payment of expenses incurred by the Board in carrying out its duties pursuant to this chapter.] (Deleted by amendment.)~~

Sec. 39. ~~[NRS 205A.090 is hereby amended to read as follows:~~

~~205A.090 1. The Account for the Technological Crime Advisory Board is hereby created in the State General Fund. The Board shall administer the Account.~~

~~2. The money in the Account must only be used to carry out the provisions of this chapter and pay the expenses incurred by the Board in the discharge of its duties, including, without limitation, the payment of any expenses related to the creation and subsequent activities of the task forces on technological crime.~~

~~3. [For each criminal or civil forfeiture carried out pursuant to NRS 179.1211 to 179.1235, inclusive, the Board shall distribute the money deposited into the Account pursuant to NRS 179.1233 in the following manner:~~

~~(a) Not less than 25 percent to be retained in the Account for use by the Board to carry out the provisions of this chapter and to pay the expenses incurred by the Board in the discharge of its duties.~~

~~(b) Not more than 75 percent to be distributed to the federal, state and local law enforcement agencies that participated in the investigation of the unlawful act giving rise to the criminal or civil forfeiture in accordance with the level of participation of each law enforcement agency as determined by the Board. If the participating law enforcement agencies have entered into an agreement to share any such money, the Board shall distribute the money to the law enforcement agencies in accordance with the provisions of the agreement.~~

~~4.] Claims against the Account must be paid as other claims against the State are paid.~~

~~[5.] 4. The money in the Account that is provided from sources other than the State General Fund or the State Highway Fund must remain in the Account and must not revert to the State General Fund at the end of any fiscal year. Money in the Account that is appropriated or allocated from the State General Fund or the State Highway Fund must revert as provided in the legislation that authorizes the appropriation or the allocation.] (Deleted by amendment.)~~

Sec. 40. ~~[NRS 207.410 is hereby amended to read as follows:~~

~~207.410 In lieu of the fine which may be imposed for a violation of NRS 207.400, the convicted person may be sentenced to pay a fine which does not exceed three times:~~

- ~~1. Any gross pecuniary value the convicted person gained; or~~
 - ~~2. Any gross loss the convicted person caused, including property damage and personal injury but excluding any pain and suffering;~~
 - ~~*** whichever is greater, as a result of the violation. The convicted person may also be sentenced to pay court costs and the reasonable costs of the investigation and prosecution. If property is ordered forfeited pursuant to [NRS 207.450,] sections 2 to 31, inclusive, of this act, the value of that property must be subtracted from a fine imposed pursuant to this section.]~~
- ~~(Deleted by amendment.)~~

Sec. 41. ~~[NRS 207.420 is hereby amended to read as follows:~~

~~207.420 [1.] If the indictment or information filed regarding a violation of NRS 207.400 alleges that real or personal property was derived from, realized through, or used or intended for use in the course of the unlawful act and the extent of that property:~~

- ~~—[(a)] 1. The jury; or~~
- ~~—[(b)] 2. If the trial is without a jury, the court,~~
- ~~*** shall, upon a conviction, determine at a separate hearing the extent of the property to be forfeited [.] pursuant to sections 2 to 31, inclusive, of this act. If the indictment or information does not include such an allegation, the property is not subject to criminal forfeiture.~~

~~—[2. The property subject to criminal forfeiture pursuant to subsection 1 includes:~~

- ~~—(a) Any title or interest acquired or maintained by the unlawful conduct;~~
- ~~—(b) Any proceeds derived from the unlawful conduct;~~
- ~~—(c) Any property or contractual right which affords a source of influence over any enterprise established, operated, controlled, participated in or conducted in violation of NRS 207.400;~~
- ~~—(d) Any position, office, appointment, tenure or contract of employment:~~
 - ~~—(1) Which was acquired or maintained in violation of NRS 207.400;~~
 - ~~—(2) Through which the convicted person conducted or participated in the conduct of such unlawful affairs of an enterprise; or~~
 - ~~—(3) Which afforded the convicted person a source of influence or control over the affairs of an enterprise which the convicted person exercised in violation of NRS 207.400;~~
- ~~—(e) Any compensation, right or benefit derived from a position, office, appointment, tenure or contract of employment that accrued to the convicted person during the period of unlawful conduct; and~~
- ~~—(f) Any amount payable or paid under any contract for goods or services which was awarded or performed in violation of NRS 207.400.~~
- ~~—3. If property which is ordered to be criminally forfeited pursuant to subsection 1:~~
 - ~~—(a) Cannot be located;~~

~~— (b) Has been sold to a purchaser in good faith for value;~~
~~— (c) Has been placed beyond the jurisdiction of the court;~~
~~— (d) Has been substantially diminished in value by the conduct of the defendant;~~
~~— (e) Has been commingled with other property which cannot be divided without difficulty or undue injury to innocent persons; or~~
~~— (f) Is otherwise unreachable without undue injury to innocent persons;~~
~~→ the court shall order the forfeiture of other property of the defendant up to the value of the property that is unreachable.}] (Deleted by amendment.)~~

Sec. 42. ~~[NRS 207.470 is hereby amended to read as follows:~~

~~— 207.470 1. Any person who is injured in his or her business or property by reason of any violation of NRS 207.400 has a cause of action against a person causing such injury for three times the actual damages sustained. An injured person may also recover attorney's fees in the trial and appellate courts and costs of investigation and litigation reasonably incurred. The defendant or any injured person in the action may demand a trial by jury in any civil action brought pursuant to this section. Any injured person has a claim to forfeited property or the proceeds derived therefrom and this claim is superior to any claim the State may have to the same property or proceeds if the injured person's claim is asserted before a final decree is issued which grants forfeiture of the property or proceeds to the State.~~

~~— 2. A final judgment or decree rendered in favor of the State in any criminal proceeding under NRS 205.322 or 207.400 estops the defendant in any subsequent civil action or proceeding from denying the essential allegations of the criminal offense.~~

~~— 3. Any civil action or proceeding under this section must be instituted in the district court of the State in the county in which the prospective defendant resides or has committed any act which subjects him or her to criminal or civil liability under this section or NRS 205.322 [,] or 207.400 . [or 207.460.]~~

~~— 4. Any civil remedy provided pursuant to this section is not exclusive of any other available remedy or penalty.}] (Deleted by amendment.)~~

Sec. 43. ~~[NRS 207.480 is hereby amended to read as follows:~~

~~— 207.480 A district court may, following a determination of civil liability under NRS 207.470 , [or 207.490,] take such actions as it deems proper, including ordering the defendant to pay all costs and expenses of the proceedings.}] (Deleted by amendment.)~~

Sec. 44. ~~[NRS 228.178 is hereby amended to read as follows:~~

~~— 228.178 1. The Attorney General may:~~

~~— (a) Investigate and prosecute any alleged technological crime;~~

~~— (b) Pursue the forfeiture of property relating to a technological crime in accordance with the provisions of [NRS 179.1211 to 179.1235, inclusive.] sections 2 to 31, inclusive, of this act;~~

~~— (c) Bring an action to enjoin or obtain any other equitable relief to prevent the occurrence or continuation of a technological crime;~~

~~2. As used in this section, "technological crime" has the meaning ascribed to it in NRS 205A.030.] (Deleted by amendment.)~~

~~Sec. 45. [NRS 370.419 is hereby amended to read as follows:~~

~~370.419 All fixtures, equipment and other materials and personal property on the premises of any wholesale or retail dealer who, with intent to defraud the State:~~

~~1. Fails to keep or make any record, return, report or inventory required pursuant to NRS 370.080 to 370.327, inclusive;~~

~~2. Keeps or makes any false or fraudulent record, return, report or inventory required pursuant to NRS 370.080 to 370.327, inclusive;~~

~~3. Refuses to pay any tax imposed pursuant to NRS 370.080 to 370.327, inclusive; or~~

~~4. Attempts in any manner to evade or defeat the requirements of NRS 370.080 to 370.327, inclusive;~~

~~is subject to forfeiture pursuant to [NRS 179.1156 to 179.119, inclusive.] sections 2 to 31, inclusive, of this act.] (Deleted by amendment.)~~

~~Sec. 46. [NRS 387.303 is hereby amended to read as follows:~~

~~387.303 1. Not later than November 1 of each year, the board of trustees of each school district shall submit to the Superintendent of Public Instruction and the Department of Taxation a report which includes the following information:~~

~~(a) For each fund within the school district, including, without limitation, the school district's general fund and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the school district in full time positions or in part time positions added together to represent full time positions. Information must be provided for the current school year based upon the school district's final budget, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.~~

~~(b) The school district's actual expenditures in the fiscal year immediately preceding the report.~~

~~(c) The school district's proposed expenditures for the current fiscal year.~~

~~(d) The schedule of salaries for licensed employees in the current school year and a statement of whether the negotiations regarding salaries for the current school year have been completed. If the negotiations have not been completed at the time the schedule of salaries is submitted, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations or the determination of an arbitrator concerning the negotiations that includes the schedule of salaries agreed to or required by the arbitrator.~~

~~(e) The number of employees who received an increase in salary pursuant to subsection 2, 3 or 4 of NRS 391.160 for the current and preceding fiscal years. If the board of trustees is required to pay an increase in salary~~

~~retroactively pursuant to subsection 2 of NRS 391.160, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction not later than February 15 of the year in which the retroactive payment was made that includes the number of teachers to whom an increase in salary was paid retroactively.~~

~~—(f) The number of employees eligible for health insurance within the school district for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.~~

~~—(g) The rates for fringe benefits, excluding health insurance, paid by the school district for its licensed employees in the preceding and current fiscal years.~~

~~—(h) The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.~~

~~—[(i) The expenditures from the account created pursuant to subsection 4 of NRS 179.1187. The report must indicate the total amount received by the district in the preceding fiscal year and the specific amount spent on books and computer hardware and software for each grade level in the district.]~~

~~—2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each school district pursuant to subsection 1.~~

~~—3. In preparing the agency biennial budget request for the State Distributive School Account for submission to the Department of Administration, the Superintendent of Public Instruction:~~

~~—(a) Shall compile the information from the most recent compilation of reports submitted pursuant to subsection 2;~~

~~—(b) May increase the line items of expenditures or revenues based on merit salary increases and cost of living adjustments or inflation, as deemed credible and reliable based upon published indexes and research relevant to the specific line item of expenditure or revenue;~~

~~—(c) May adjust expenditures and revenues pursuant to paragraph (b) for any year remaining before the biennium for which the budget is being prepared and for the 2 years of the biennium covered by the biennial budget request to project the cost of expenditures or the receipt of revenues for the specific line items;~~

~~—(d) May consider the cost of enhancements to existing programs or the projected cost of proposed new educational programs, regardless of whether those enhancements or new programs are included in the per pupil basic support guarantee for inclusion in the biennial budget request to the Department of Administration; and~~

~~—(e) Shall obtain approval from the State Board for any inflationary increase, enhancement to an existing program or addition of a new program included in the agency biennial budget request.~~

~~4. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues of the school districts with the apportionment received by those districts from the State Distributive School Account for the preceding year.~~

~~5. The request prepared pursuant to subsection 3 must:~~

~~(a) Be presented by the Superintendent of Public Instruction to such standing committees of the Legislature as requested by the standing committees for the purposes of developing educational programs and providing appropriations for those programs; and~~

~~(b) Provide for a direct comparison of appropriations to the proposed budget of the Governor submitted pursuant to subsection 4 of NRS 353.230.]~~
(Deleted by amendment.)

Sec. 47. [NRS 453.301 is hereby amended to read as follows:

~~453.301 The following are subject to forfeiture pursuant to [NRS 179.1156 to 179.119, inclusive:] sections 2 to 31, inclusive, of this act:~~

~~1. All controlled substances which have been manufactured, distributed, dispensed or acquired in violation of the provisions of NRS 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.~~

~~2. All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing or exporting any controlled substance in violation of the provisions of NRS 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.~~

~~3. All property which is used, or intended for use, as a container for property described in subsections 1 and 2.~~

~~4. All books, records and research products and materials, including formulas, microfilm, tapes and data, which are used, or intended for use, in violation of the provisions of NRS 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.~~

~~5. All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, concealment, manufacture or protection, for the purpose of sale, possession for sale or receipt of property described in subsection 1 or 2.~~

~~6. All drug paraphernalia as defined by NRS 453.554 which are used in violation of NRS 453.560, 453.562 or 453.566 or a law of any other jurisdiction which prohibits the same or similar conduct, or of an injunction issued pursuant to NRS 453.558.~~

~~7. All imitation controlled substances which have been manufactured, distributed or dispensed in violation of the provisions of NRS 453.332 or 453.3611 to 453.3648, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.~~

~~8. All real property and mobile homes used or intended to be used by any owner or tenant of the property or mobile home to facilitate a violation of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, or~~

~~used or intended to be used to facilitate a violation of a law of any other jurisdiction which prohibits the same or similar conduct as prohibited in NRS 453.011 to 453.552, inclusive, except NRS 453.336. As used in this subsection, "tenant" means any person entitled, under a written or oral rental agreement, to occupy real property or a mobile home to the exclusion of others.~~

~~9. Everything of value furnished or intended to be furnished in exchange for a controlled substance in violation of the provisions of NRS 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct, all proceeds traceable to such an exchange, and all other property used or intended to be used to facilitate a violation of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, or used or intended to be used to facilitate a violation of a law of any other jurisdiction which prohibits the same or similar conduct as prohibited in NRS 453.011 to 453.552, inclusive, except NRS 453.336. If an amount of cash which exceeds \$300 is found in the possession of a person who is arrested for a violation of NRS 453.337 or 453.338, then there is a rebuttable presumption that the cash is traceable to an exchange for a controlled substance and is subject to forfeiture pursuant to this subsection.~~

~~10. All firearms, as defined by NRS 202.253, which are in the actual or constructive possession of a person who possesses or is consuming, manufacturing, transporting, selling or under the influence of any controlled substance in violation of the provisions of NRS 453.011 to 453.552, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.~~

~~11. All computer hardware, equipment, accessories, software and programs that are in the actual or constructive possession of a person who owns, operates, controls, profits from or is employed or paid by an illegal Internet pharmacy and who violates the provisions of NRS 453.3611 to 453.3648, inclusive, or a law of any other jurisdiction which prohibits the same or similar conduct.} (Deleted by amendment.)~~

Sec. 48. ~~{NRS 453.305 is hereby amended to read as follows:~~

~~453.305 1. Whenever a person is arrested for violating any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, and real property or a mobile home occupied by the person as a tenant has been used to facilitate the violation, the prosecuting attorney responsible for the case shall cause to be delivered to the owner of the property or mobile home a written notice of the arrest.~~

~~2. Whenever a person is convicted of violating any of the provisions of NRS 453.011 to 453.552, inclusive, except NRS 453.336, and real property or a mobile home occupied by the person as a tenant has been used to facilitate the violation, the prosecuting attorney responsible for the case shall cause to be delivered to the owner of the property or mobile home a written notice of the conviction.~~

~~3. The notices required by this section must:~~

- ~~— (a) Be written in language which is easily understood;~~
- ~~— (b) Be sent by certified or registered mail, return receipt requested, to the owner at the owner's last known address;~~
- ~~— (c) Be sent within 15 days after the arrest occurs or judgment of conviction is entered against the tenant, as the case may be;~~
- ~~— (d) Identify the tenant involved and the offense for which the tenant has been arrested or convicted; and~~
- ~~— (e) Advise the owner that:~~
 - ~~— (1) The property or mobile home is subject to forfeiture pursuant to [NRS 179.1156 to 179.119, inclusive,] sections 2 to 31, inclusive, of this act and NRS 453.301 unless the tenant, if convicted, is evicted;~~
 - ~~— (2) Any similar violation by the same tenant in the future may also result in the forfeiture of the property unless the tenant has been evicted;~~
 - ~~— (3) In any proceeding for forfeiture based upon such a violation the owner will, by reason of the notice, be deemed to have known of and consented to the unlawful use of the property or mobile home; and~~
 - ~~— (4) The provisions of NRS 40.2514 and 40.254 authorize the supplemental remedy of summary eviction to facilitate the owner's recovery of the property or mobile home upon such a violation and provide for the recovery of any reasonable attorney's fees the owner incurs in doing so.~~
- ~~— 4. Nothing in this section shall be deemed to preclude the commencement of a proceeding for forfeiture or the forfeiture of the property or mobile home, whether or not the notices required by this section are given as required, if the proceeding and forfeiture are otherwise authorized pursuant to [NRS 179.1156 to 179.119, inclusive,] sections 2 to 31, inclusive, of this act and NRS 453.301.~~
- ~~— 5. As used in this section, "tenant" means any person entitled under a written or oral rental agreement to occupy real property or a mobile home to the exclusion of others.] (Deleted by amendment.)~~

Sec. 49. ~~[NRS 453A.410 is hereby amended to read as follows:~~

- ~~— 453A.410 1. If a law enforcement agency legally and justly seizes evidence from a medical marijuana establishment on a basis that, in consideration of due process and viewed in the manner most favorable to the establishment, would lead a reasonable person to believe that a crime has been committed, the relevant provisions of [NRS 179.1156 to 179.121, inclusive,] sections 2 to 31, inclusive, of this act apply insofar as they do not conflict with the provisions of this chapter.~~
- ~~— 2. As used in this section, "law enforcement agency" has the meaning ascribed to it in NRS 239C.065.] (Deleted by amendment.)~~

Sec. 50. ~~[NRS 501.3857 is hereby amended to read as follows:~~

- ~~— 501.3857 Any gun, ammunition, trap, snare, vessel, vehicle, aircraft or other device or equipment used, or intended for use:~~
 - ~~— 1. To facilitate the unlawful and intentional killing or possession of any big game mammal;~~

~~2. To hunt or kill a big game mammal by using information obtained as a result of the commission of an act prohibited by NRS 502.010 or a regulation of the Commission which prohibits the location of big game mammals for the purpose of hunting or killing by the use of:~~

~~(a) An aircraft, including, without limitation, any device that is used for navigation of, or flight in, the air;~~

~~(b) A hot air balloon or any other device that is lighter than air; or~~

~~(c) A satellite or any other device that orbits the earth and is equipped to produce images, or other similar devices; or~~

~~3. Knowingly to transport, sell, receive, acquire or purchase any big game mammal which is unlawfully killed or possessed;~~

~~is subject to forfeiture pursuant to [NRS 179.1156 to 179.119, inclusive.] sections 2 to 31, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 51. ~~[NRS 599B.255 is hereby amended to read as follows:~~

~~599B.255 1. Except as otherwise provided in NRS 599B.213, the Attorney General or the district attorney of any county in this state may prosecute a person who willfully violates, either directly or indirectly, the provisions of this chapter. Except as otherwise provided in subsection 3, such a person:~~

~~(a) For the first offense within 10 years, is guilty of a misdemeanor.~~

~~(b) For the second offense within 10 years, is guilty of a gross misdemeanor.~~

~~(c) For the third and all subsequent offenses within 10 years, is guilty of a category D felony and shall be punished as provided in NRS 193.130, or by a fine of not more than \$50,000, or by both fine and the punishment provided in NRS 193.130.~~

~~2. Any offense which occurs within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 1 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.~~

~~3. A person who violates any provision of NRS 599B.080 is guilty of a category D felony and shall be punished as provided in NRS 193.130, or by a fine of not more than \$50,000, or by both fine and the punishment provided in NRS 193.130.~~

~~4. Property or proceeds attributable to any violation pursuant to the provisions of this section are subject to forfeiture in the manner provided by [NRS 179.1156 to 179.121, inclusive.] sections 2 to 31, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 52. ~~[NRS 179.1156, 179.1157, 179.1158, 179.1159, 179.1161, 179.1162, 179.1163, 179.1163.5, 179.1164, 179.1165, 179.1169, 179.1171, 179.1173, 179.1175, 179.118, 179.1185, 179.1187, 179.119, 179.121, 179.1211, 179.1213, 179.1215, 179.1217, 179.1219, 179.1221, 179.1223, 179.1225, 179.1227, 179.1229, 179.1231, 179.1233, 179.1235, 207.415, 207.430, 207.440, 207.450, 207.460, 207.490, 207.500 and 207.510 are hereby repealed.] (Deleted by amendment.)~~

LEADLINES OF REPEALED SECTIONS

~~179.1156 Scope.~~
~~179.1157 Definitions.~~
~~179.1158 "Claimant" defined.~~
~~179.1159 "Plaintiff" defined.~~
~~179.1161 "Proceeds" defined.~~
~~179.1162 "Property" defined.~~
~~179.1163 "Protected interest" defined.~~
~~179.11635 "Willful blindness" defined.~~
~~179.1164 Property subject to seizure and forfeiture; exceptions.~~
~~179.1165 Seizure of property: Requirement of process.~~
~~179.1169 Title in property; transfer.~~
~~179.1171 Proceedings for forfeiture: Rules of practice; complaint; service of summons and complaint; answer; parties.~~
~~179.1173 Proceedings for forfeiture: Priority over other civil matters; motion to stay; standard of proof; conviction of claimant not required; confidentiality of informants; return of property to claimant.~~
~~179.1175 Disposition of property after seizure and forfeiture.~~
~~179.118 Distribution of proceeds from forfeited property.~~
~~179.1185 Issuance of certificate of title for forfeited vehicle or other conveyance.~~
~~179.1187 Establishment of account for proceeds from forfeited property; restrictions on use of money in account; distribution of certain amount to school district; duties of school district and chief administrative officer of law enforcement agency.~~
~~179.119 Reports by law enforcement agencies that receive forfeited property or related proceeds; inclusion of such anticipated revenue in budget prohibited.~~
~~179.121 Forfeiture of personal property and conveyances used in commission of crime.~~
~~179.1211 Definitions.~~
~~179.1213 "Proceeds" defined.~~
~~179.1215 "Property" defined.~~
~~179.1217 "Technological crime" defined.~~
~~179.1219 Property subject to forfeiture; substitution for unreachable property.~~
~~179.1221 Forfeiture as part of plea agreement.~~
~~179.1223 Temporary restraining order to preserve property.~~
~~179.1225 Orders to secure property.~~
~~179.1227 Order of forfeiture; order to protect interests of State.~~
~~179.1229 Property subject to civil forfeiture; required proof; where action must be instituted.~~
~~179.1231 Seizure of property before forfeiture and final disposition; institution of proceedings; intercession by district attorney or Attorney General; interlocutory actions by court; order of forfeiture.~~

~~179.1233 Sale of forfeited property; use of proceeds; deposit of balance of proceeds in Account for the Technological Crime Advisory Board; payment of certain encumbrances.~~

~~179.1235 Limitation of actions.~~

~~207.415 Account for Prosecution of Racketeering created; use and distribution of money by Attorney General; reimbursement of Account.~~

~~207.430 Criminal forfeiture: Temporary restraining order to preserve property.~~

~~207.440 Criminal forfeiture: Orders to secure property.~~

~~207.450 Criminal forfeiture: Order of forfeiture; protection of property.~~

~~207.460 Civil forfeiture: Property subject to forfeiture.~~

~~207.490 Criminal and civil forfeiture: Seizure of property before forfeiture and final disposition; order of forfeiture; intercession by Attorney General; interlocutory actions by court.~~

~~207.500 Use, sale and other disposal of forfeited property by State, county or city; payment of certain encumbrances.~~

~~207.510 Parties to proceedings for forfeiture of property.]~~

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 138 deletes all provisions of the bill with the exception of section 30, which provides that each law enforcement agency in the State must report annually to the Attorney General specific information about each seizure and forfeiture it conducts.

The Office of the Attorney General is to develop standardized forms for law enforcement agencies to use for the reports and is to make the reports available on its website by April 1 of each year along with an aggregate report of all forfeitures in the State. Information on any law enforcement agency that is out of compliance with these requirements is to be included in the aggregate report.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 167.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 275.

SUMMARY—Revises provisions relating to employment. (BDR 18-265)

AN ACT relating to employment; revising provisions governing the filing of complaints of employment discrimination with the Nevada Equal Rights Commission; revising the relief that the Commission may order if it determines that an unlawful practice has occurred; providing that it is an unlawful employment practice for an employer, employment agency or labor organization to discriminate against a person for inquiring about, discussing or disclosing information about wages in certain circumstances; revising provisions relating to the time in which an employee may seek relief in district court for a claim of unlawful employment practices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits an employer, employment agency or labor organization from discriminating against any person with respect to employment or membership, as applicable, on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin. (NRS 613.330) Existing law also requires the Nevada Equal Rights Commission to accept certain complaints alleging unlawful discriminatory practices and, if the Commission determines that an unlawful practice has occurred, order: (1) the person engaging in the practice to cease and desist; and (2) for a case involving an unlawful employment practice, the restoration of all benefits and rights to which the aggrieved person is entitled. (NRS 233.157, 233.170)

Section 1 of this bill revises provisions governing the filing of complaints alleging a practice of unlawful discrimination in compensation to require that the complaint be filed within 300 days after any date on which: (1) a decision or practice resulting in discriminatory compensation is adopted; (2) a person becomes subject to such a decision or practice; or (3) a person is affected by an application of such a decision or practice. Section 2 of this bill revises the powers of the Commission to order remedies for unlawful employment practices. Section 2 authorizes the Commission ~~to award back pay for a period beginning {2} 3 years before the date of the filing of a complaint regarding an unlawful employment practice and ending on the date the Commission issues an order regarding the complaint. {; and (2) to order a civil penalty of not more than \$10,000 for an unlawful employment practice that it determines is willful.}~~

Section 3 of this bill prohibits an employer, employment agency or labor organization from discriminating against any employee, person ~~with respect to employment or membership,~~ or member, as applicable, for inquiring about, discussing or disclosing information about wages unless the person has access to information about the wages of other persons as part of his or her essential job functions and discloses the information to a person who does not have access to that information.

Section 12 of this bill requires the Commission, if it does not conclude that an unfair employment practice has occurred, to issue a letter to the person who filed the complaint concerning an unfair employment practice. This letter must notify the person of his or her right to apply to the district court for an order relating to the alleged unfair employment practice. Section 13 of this bill provides that a person may apply to a district court for relief pursuant to section 12 up to 90 days after the date of issuance of the letter described in section 12, in addition to the existing authority to apply to a district court for relief up to 180 days after the date of the alleged act.

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

Section 1. NRS 233.160 is hereby amended to read as follows:

233.160 1. A complaint which alleges unlawful discriminatory practices in:

(a) Housing must be filed with the Commission not later than 1 year after the date of the occurrence of the alleged practice or the date on which the practice terminated.

(b) Employment or public accommodations must be filed with the Commission not later than 300 days after the date of the occurrence of the alleged practice.

➔ A complaint is timely if it is filed with an appropriate federal agency within that period. A complainant shall not file a complaint with the Commission if any other state or federal administrative body or officer which has comparable jurisdiction to adjudicate complaints of discriminatory practices has made a decision upon a complaint based upon the same facts and legal theory.

2. The complainant shall specify in the complaint the alleged unlawful practice and sign it under oath.

3. The Commission shall send to the party against whom an unlawful discriminatory practice is alleged:

- (a) A copy of the complaint;
- (b) An explanation of the rights which are available to that party; and
- (c) A copy of the Commission's procedures.

4. *For the purposes of paragraph (b) of subsection 1, an unlawful discriminatory practice in employment which relates to compensation occurs on each date on which:*

(a) A decision or other practice resulting in discriminatory compensation is adopted;

(b) A person becomes subject to a decision or other practice resulting in discriminatory compensation; or

(c) A person is affected by an application of a decision or other practice resulting in discriminatory compensation, including, without limitation, each ~~payment of~~ time wages, benefits or other compensation ~~[that] is [affected by the]~~ paid, resulting, in whole or in part, from such a decision or other practice.

Sec. 2. NRS 233.170 is hereby amended to read as follows:

233.170 1. When a complaint is filed whose allegations if true would support a finding of unlawful practice, the Commission shall determine whether to hold an informal meeting to attempt a settlement of the dispute in accordance with the regulations adopted pursuant to NRS 233.157. If the Commission determines to hold an informal meeting, the Administrator may, to prepare for the meeting, request from each party any information which is reasonably relevant to the complaint. No further action may be taken if the parties agree to a settlement.

2. If an agreement is not reached at the informal meeting, the Administrator shall determine whether to conduct an investigation into the alleged unlawful practice in accordance with the regulations adopted pursuant to NRS 233.157. After the investigation, if the Administrator determines that an unlawful practice has occurred, the Administrator shall

attempt to mediate between or reconcile the parties. The party against whom a complaint was filed may agree to cease the unlawful practice. If an agreement is reached, no further action may be taken by the complainant or by the Commission.

3. If the attempts at mediation or conciliation fail, the Commission may hold a public hearing on the matter. After the hearing, if the Commission determines that an unlawful practice has occurred, it may:

(a) Serve a copy of its findings of fact within 10 calendar days upon any person found to have engaged in the unlawful practice; and

(b) Order the person to:

(1) Cease and desist from the unlawful practice.

(2) In cases involving an unlawful employment practice, restore all benefits and rights to which the aggrieved person is entitled, including, but not limited to, rehiring, back pay for a period ~~[not to exceed 2 years after the date of the most recent unlawful practice.]~~ *described in subsection 4*, annual leave time, sick leave time or pay, other fringe benefits and seniority, with interest thereon from the date of the Commission's decision 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 of the Commission's decision, plus 2 percent. The rate of interest must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

~~f (3) In cases involving an unlawful employment practice that the Commission determines was willful, pay a civil penalty of not more than \$10,000.~~

4. *For the purposes of subparagraph (2) of paragraph (b) of subsection 3, the period for back pay must not exceed a period beginning ~~[2]~~ 3 years before the date on which the complaint was filed and ending on the date the Commission issues an order pursuant to paragraph (b) of subsection 3, addressing all unlawful practices which occur during that period and which are similar or related to an unlawful practice in the complaint.*

5. The order of the Commission is a final decision in a contested case for the purpose of judicial review. If the person fails to comply with the Commission's order, the Commission shall apply to the district court for an order compelling such compliance, but failure or delay on the part of the Commission does not prejudice the right of an aggrieved party to judicial review. The court shall issue the order unless it finds that the Commission's findings or order are not supported by substantial evidence or are otherwise arbitrary or capricious. If the court upholds the Commission's order and finds that the person has violated the order by failing to cease and desist from the unlawful practice or to make the payment ordered, the court shall award the aggrieved party actual damages for any economic loss and no more.

~~[5.]~~ 6. After the Commission has held a public hearing and rendered a decision, the complainant is barred from proceeding on the same facts and legal theory before any other administrative body or officer.

Sec. 3. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, it is an unlawful employment practice for an employer to discriminate against any of his or her employees, ~~for applicants for employment,~~ for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof, ~~for applicant for membership,~~ because the employee, ~~applicant,~~ person or member, as applicable, has inquired about, discussed or disclosed his or her wages or the wages of another employee, ~~applicant,~~ person or member.*

2. *The provisions of subsection 1 do not apply to an employee, ~~applicant,~~ person or member who has access to information about the wages of other employees, ~~applicants,~~ persons or members as part of his or her essential job functions and discloses that information to a person who does not have access to that information unless the disclosure is in response to a charge, complaint or investigation for a violation of NRS 613.330.*

Sec. 4. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

5. "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.

6. "Person" includes the State of Nevada and any of its political subdivisions.

7. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 5. NRS 613.320 is hereby amended to read as follows:

613.320 1. The provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* do not apply to:

(a) Any employer with respect to employment outside this state.

(b) Any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities.

2. The provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* concerning unlawful employment practices related to sexual orientation and gender identity or expression do not apply to an organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 6. NRS 613.340 is hereby amended to read as follows:

613.340 1. It is an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof or applicant for membership, because the employee, applicant, person or member, as applicable, has opposed any practice made an unlawful employment practice by NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, or because he or she has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under NRS 613.310 to 613.435, inclusive ~~[]~~, *and section 3 of this act*.

2. It is an unlawful employment practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin when religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification for employment.

Sec. 7. NRS 613.350 is hereby amended to read as follows:

613.350 1. It is not an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis of his or her religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in those instances where religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. It is not an unlawful employment practice for an employer to fail or refuse to hire and employ employees, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of a disability in those instances where physical, mental or visual condition is a bona fide and relevant occupational qualification necessary to the normal operation of that particular business or enterprise, if it is shown that the particular disability would prevent proper performance of the work for which the person with a disability would otherwise have been hired, classified, referred or prepared under a training or retraining program.

3. It is not an unlawful employment practice for an employer to fail or refuse to hire or to discharge a person, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of his or her age if the person is less than 40 years of age.

4. It is not an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if the school or institution is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school or institution is directed toward the propagation of a particular religion.

5. It is not an unlawful employment practice for an employer to observe the terms of any bona fide plan for employees' benefits, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the provisions

of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* as they relate to discrimination against a person because of age, except that no such plan excuses the failure to hire any person who is at least 40 years of age.

6. It is not an unlawful employment practice for an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards so long as such requirements are not precluded by law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.

Sec. 8. NRS 613.380 is hereby amended to read as follows:

613.380 Notwithstanding any other provision of NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, it is not an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if those differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, nor is it an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test, if the test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin.

Sec. 9. NRS 613.390 is hereby amended to read as follows:

613.390 Nothing contained in NRS 613.310 to 613.435, inclusive, *and section 3 of this act* applies to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because the individual is an Indian living on or near a reservation.

Sec. 10. NRS 613.400 is hereby amended to read as follows:

613.400 Nothing contained in NRS 613.310 to 613.435, inclusive, *and section 3 of this act* requires any employer, employment agency, labor organization or joint labor-management committee subject to NRS 613.310 to 613.435, inclusive, *and section 3 of this act* to grant preferential treatment to any person or to any group because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of the individual or group on account of an imbalance which exists with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of that race, color, religion, sex, sexual

orientation, gender identity or expression, age, disability or national origin in any community, section or other area, or in the available workforce in any community, section or other area.

Sec. 11. NRS 613.405 is hereby amended to read as follows:

613.405 Any person injured by an unlawful employment practice within the scope of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

Sec. 12. NRS 613.420 is hereby amended to read as follows:

613.420 If the Nevada Equal Rights Commission does not conclude that an unfair employment practice within the scope of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* has occurred ~~[-any]~~ :

1. Any person alleging such a practice may apply to the district court for an order granting or restoring to that person the rights to which the person is entitled under those sections ~~[-]~~ ; *and*

2. *The Commission shall issue a letter to the person who filed the complaint pursuant to NRS 613.405 notifying the person of his or her rights pursuant to subsection 1.*

Sec. 13. NRS 613.430 is hereby amended to read as follows:

613.430 No action authorized by NRS 613.420 may be brought more than 180 days after the date of the act complained of ~~[-]~~ *or more than 90 days after the date of the issuance of the letter described in subsection 2 of NRS 613.420, whichever is later.* When a complaint is filed with the Nevada Equal Rights Commission the limitation provided by this section is tolled as to any action authorized by NRS 613.420 during the pendency of the complaint before the Commission.

Sec. 14. This act becomes effective on July 1, 2015.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 167 does the following: clarifies language in subsection 4(c) of section 1 regarding how to determine when a discriminatory practice related to compensation has occurred; deletes the penalty of up to \$10,000 that the Commission may impose; extends from two to three years the period for which back pay may be awarded; and deletes language in section 3 referring to applicants for employment or membership.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 174.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 437.

SUMMARY—Revises provisions governing eligibility to be a member of the executive board or an officer of a unit-owners' association. (BDR 10-617)

AN ACT relating to common-interest communities; revising provisions governing eligibility to be a member of the executive board or an officer of a unit-owners' association; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law 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 unit-owners' association if the person or certain other persons perform the duties of a community manager for that association. (NRS 116.31034) This bill additionally excludes a person, other than a person appointed by the declarant, from being a member of the executive board or an officer of a unit-owners' association if: (1) the person resides with, is married to or domestic partners with 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 owns more than one unit in the association. The exclusion does not apply to a person who owns 75 percent or more of the units in an association under certain circumstances.

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

Section 1. 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~~ Except as otherwise provided in subsection 10, unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if ~~the~~ :

(1) ~~Two persons reside together. The person resides in a unit, are, with, is married to each other, is domestic partners with, or are, is related by blood, adoption or marriage, within the third degree of consanguinity or affinity, and if one of those persons, to another person who 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 owns more than one unit in the 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. A person, other than a person appointed by the declarant, who owns 75 percent or more of the units in an association may:

(a) Be a member of the executive board or an officer of the association; and

(b) Reside in a unit with, be married to, be domestic partners with, or be related by blood, adoption or marriage within the third degree of consanguinity or affinity to another person who is also a member of the executive board or is an officer of the association, unless the person owning 75 percent or more of the units in the association and the other person would constitute a majority of the total number of seats on the executive board.

11. 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.

~~11.1~~ 12. 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.~~ 13. 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.~~ 14. 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.~~ 12 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.~~ 15. 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.~~ 14.

16. 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.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 437 to Senate Bill No. 174 adds a domestic partner to the list of persons who are excluded from serving on a homeowners association board of directors under certain circumstances and provides that a person who owns 75 percent or more of the units in an association may serve on the board, regardless of the exclusions provided in the bill, so long as doing so will not mean that two persons who would otherwise be excluded from serving together will constitute a majority of the board membership.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 194.

Bill read second time.

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

Amendment No. 200.

SUMMARY—Revises provisions relating to industrial insurance. (BDR 53-991)

AN ACT relating to industrial insurance; revising the threshold cost of a construction project at which a private company, public entity or utility may establish a consolidated insurance program; requiring the owner or principal contractor of a construction project that is covered by a consolidated insurance program to provide access to the site of the construction project and to documents relating to claims under certain circumstances; revising

certain requirements for the issuance of a policy or contract of insurance providing coverage for a consolidated insurance program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a private company, public entity or utility to establish and administer or to require participation in a consolidated insurance program for industrial insurance on a construction project which meets a minimum threshold amount established by the Commissioner of Insurance, which must initially be set at \$150,000,000. (NRS 616B.710) Section 1 of this bill fixes ~~the~~ this threshold cost for a construction project or series of projects at \$100,000,000 for a public entity or utility, and removes any threshold cost requirement for a private company.] \$50,000,000.

Existing law requires a private company, public entity or utility that enters into a contract with a private carrier for the provision of industrial insurance coverage for a consolidated insurance program to file a copy of the contract with the Commissioner. Section 2 of this bill deletes that requirement for a private company.

Existing law requires that each consolidated insurance program have a designated administrator of claims. Existing law also prohibits the administrator from serving as administrator for more than one consolidated insurance program. (NRS 616B.727) Section 3 of this bill removes this prohibition, allowing an administrator of claims to serve as the administrator of claims for the consolidated insurance program of more than one construction project. Section 3 also requires that any policy or contract of insurance required by a consolidated insurance program be issued by an insurer meeting certain requirements.

Section 2.5 of this bill requires the owner or primary contractor of a construction project to allow the contractor, employer or subcontractor who employs an employee who is engaged in the construction project to have access to the site of the construction project and to any documents relating to claims filed by or on behalf of their injured workers.

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

Section 1. NRS 616B.710 is hereby amended to read as follows:

616B.710 1. A private company, public entity or utility may:

(a) Establish ~~Subject to the provisions of subsection 3, establish~~ and administer a consolidated insurance program to provide industrial insurance coverage for employees of contractors and subcontractors who are engaged in a construction project or series of projects of which the private company, public entity or utility is the owner or principal contractor ~~if~~ if the estimated total cost of the construction project or series of projects is equal to or greater than [the threshold amount established by the Commissioner pursuant to subsection 3.] \$50,000,000; and

(b) As a condition precedent to the award of a contract to perform work on the construction project ~~if~~ or any project that is part of the series of projects,

require that contractors and subcontractors who will be engaged in the construction of the project or series of projects participate in the consolidated insurance program.

2. If a private company, public entity or utility:

(a) Establishes and administers a consolidated insurance program; and

(b) Pursuant to the contract for the construction of the project ~~[-]~~ or series of projects, owes a periodic payment to a contractor or subcontractor whose employees are covered under the consolidated insurance program,

↪ the private company, public entity or utility shall not withhold such a periodic payment on the basis that the contractor or subcontractor has not signed an employer's report of industrial injury or occupational disease as required pursuant to NRS 616C.045.

3. ~~{The Commissioner shall establish the threshold amount that a public entity or utility may establish and administer or require participation in a consolidated insurance program pursuant to subsection 1 only if the estimated total cost of a construction project must be equal to or greater than before a consolidated insurance program may be established and administered for that project pursuant to this section. The base amount for the threshold must initially be \$150,000,000 and thereafter must be an amount equal to \$150,000,000 as adjusted by the Commissioner on June 30 of each year to reflect the present value of that amount with respect to the construction cost index. is \$100,000,000 or more.~~

~~4.}~~ As used in this section:

~~(a) {"Construction cost index" means the construction cost index published by the Engineering News-Record as a measure of inflation.~~

~~(b) {"Estimated [-,"estimated"] total cost" means the estimated cost to complete all parts of a construction project [-] or series of projects, including, without limitation, the cost of:~~

~~(1) [-(a)] Designing the project [-] or series of projects;~~

~~(2) [-(b)] Acquiring the real property on which the project or series of projects will be constructed;~~

~~(3) [-(c)] Connecting the project or series of projects to utilities;~~

~~(4) [-(d)] Excavating and carrying out underground improvements for the project [-] or series of projects; and~~

~~(5) [-(e)] Acquiring equipment and furnishings for the project [-] or series of projects.~~

↪ The term does not include the cost of any fees or charges associated with acquiring the money necessary to complete the project ~~[-]~~ or series of projects.

~~(b) "Series of projects" means two or more projects of which the same private company, public entity or utility is the owner or principal contractor and which are specifically identifiable at the time a consolidated insurance program is established.~~

Sec. 2. NRS 616B.712 is hereby amended to read as follows:

616B.712 1. A private carrier who is authorized to transact industrial insurance in this State may contract with a private company, public entity or utility to provide industrial insurance coverage for a consolidated insurance program.

2. A ~~private company,~~ public entity or utility that enters into a contract with a private carrier for the provision of industrial insurance coverage for a consolidated insurance program shall file a copy of the contract with the Commissioner at least 60 days before the date on which the construction project is scheduled to begin.

3. The Commissioner shall, within 60 days after receiving a copy of a contract pursuant to subsection 2, review and approve or disapprove the contract. If the Commissioner does not disapprove the contract within 60 days after receiving it, the contract shall be deemed approved.

Sec. 2.5. NRS 616B.725 is hereby amended to read as follows:

616B.725 1. A consolidated insurance program that a private company, public entity or utility is authorized to establish and administer pursuant to NRS 616B.710 must, in the manner set forth in this section, provide for the safety of an employee of a contractor or subcontractor who is engaged in the construction project when such an employee works at the site of the construction project.

2. The owner or principal contractor of the construction project shall develop and carry out a safety program that includes, without limitation:

(a) The establishment of minimum standards of safety to be observed during construction of the project;

(b) The holding of regular meetings to address and discuss issues related to safety;

(c) Training of contractors and subcontractors regarding issues and procedures related to safety;

(d) Regular inspections of the site of the construction project to identify potential safety hazards and ensure that minimum standards of safety are being observed;

(e) The notification of contractors and subcontractors of special hazards that exist at the site of the construction project, including advice on ways in which the contractors and subcontractors can avoid those hazards; and

(f) The prompt investigation of any injuries that take place at the site of the construction project which result in death or serious bodily injury.

3. The owner or principal contractor of the construction project shall hire or contract with two persons to serve as the primary and alternate coordinators for safety for the construction project. The primary and alternate coordinators for safety must:

(a) Possess credentials in the field of safety that the Administrator determines to be adequate to prepare a person to act as a coordinator for safety for a construction project, including, without limitation, credentials issued by: ~~the~~

(1) The Board of Certified Safety Professionals; or

(2) ~~[Insurance Institute of America;] *The Institutes*~~; or

(b) Have at least 3 years of experience in overseeing matters of occupational safety and health in the field of construction that the Administrator determines to be adequate to prepare a person to act as a coordinator for safety for a construction project.

4. The primary and alternate coordinators for safety for the construction project:

(a) Must not serve as coordinators for safety for another construction project that is covered by a different consolidated insurance program;

(b) Shall oversee and enforce the safety program established pursuant to subsection 2, including, without limitation, resolving problems related to the operation of the safety program; and

(c) Shall ensure that the contractors, employers and subcontractors who are engaged in the construction of the project coordinate their efforts regarding issues of occupational safety and health to create and maintain a safe and healthful workplace.

5. The alternate coordinator for safety shall report to the primary coordinator for safety regarding activities that take place at the site of the construction project when the primary coordinator is absent.

6. The owner or principal contractor of the construction project shall ensure that the primary or alternate coordinator for safety for the construction project is physically present at the site of the construction project whenever activity related to construction is taking place at the site.

7. The owner or principal contractor of the construction project shall allow the contractor, employer or subcontractor who employs an employee who is engaged in the construction project to access:

(a) The site of the construction project for the purpose of ensuring the occupational safety and health of the employees of the contractor, employer or subcontractor; and

(b) Any documents relating to claims filed by or on behalf of an employee of the contractor, employer or subcontractor who has been injured on the construction project.

Sec. 3. NRS 616B.727 is hereby amended to read as follows:

616B.727 1. A consolidated insurance program that a private company, public entity or utility is authorized to establish and administer pursuant to NRS 616B.710 must, in the manner set forth in this section, provide for the administration of claims for industrial insurance for an employee of a contractor or subcontractor who is engaged in the construction project when such an employee works at the site of the construction project.

2. The owner or principal contractor of the construction project shall hire or contract with a person to serve as the administrator of claims for industrial insurance for the construction project. ~~[Such a person must not serve as an administrator of claims for industrial insurance for another construction project that is covered by a different consolidated insurance program.]~~

3. Any policy or contract of insurance providing coverage for a consolidated insurance program must be issued by an insurer who is rated A- or better by A.M. Best with a Financial Size Category of Class VII or larger, or the equivalent as determined by the Commissioner.

4. The administrator of claims for industrial insurance for the construction project who is hired or with whom the owner or principal contractor contracts pursuant to subsection 2 shall:

(a) Assist an employee who is covered under the consolidated insurance program or, in the event of the employee's death, one of the dependents of the employee, in filing a written notice of injury or death as required pursuant to NRS 616C.015 or a written notice of an occupational disease as required pursuant to NRS 617.342;

(b) Sign and file on behalf of a contractor or subcontractor whose employees are covered under the consolidated insurance program an employer's report of industrial injury or occupational disease as required pursuant to NRS 616C.045 or 617.354;

(c) Ensure that an employee who is covered under the consolidated insurance program and who has been injured or who has incurred an occupational disease while working on the construction project is directed to a medical facility that will provide treatment to the employee under the program;

(d) Handle all issues, to the extent reasonably practicable, relating to claims for industrial insurance at the site of the construction project; and

(e) Hire or contract such assistant administrators as may be necessary to carry out the responsibilities of the administrator of claims pursuant to this section.

~~[4.]~~ 5. The owner or principal contractor of the construction project shall ensure that the administrator of claims for industrial insurance for the construction project or an assistant administrator is physically present at the site of the construction project whenever activity related to construction is taking place at the site.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 200 makes three changes to Senate Bill No. 194: 1) revises the threshold cost to \$50 million for a public entity or utility to establish and administer or require participation in a consolidated insurance program for a construction project or series of projects; 2) requires a certain rating level of insurance that must be procured in a consolidated insurance program; and 3) provides that the owner or principal contractor of the construction project must ensure that employees who are subcontracted into an owner-controlled insurance project have access to the jobsite for occupational safety and health issues and claims documents to ensure proper treatment are given to injured workers.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 211.

Bill read second time.

The following amendment was proposed by the Committee on Education:
Amendment No. 299.

SUMMARY—Revises provisions governing public schools.
(BDR 34-426)

AN ACT relating to education; ~~requiring a school district to set the time for the commencement of a school day;~~ requiring public high schools to provide ~~for~~ an elective course of instruction in ethnic studies; ~~requiring a pupil to pass such a course to graduate from high school; requiring the Council to Establish Academic Standards for Public Schools to prescribe standards of content and performance for such a course;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law provides that a junior high or middle school is a public school in which sixth, seventh, eighth and ninth grades are taught and a high school is a public school in which subjects above the eighth grade may be taught (NRS 388.020) Existing law also requires the board of trustees of a school district to schedule and provide a minimum of 180 days of free school in the district under its charge. (NRS 388.090) Section 1 of this bill requires each school district to set the time for the commencement of the school day which must not be earlier than 7 a.m. at an elementary school, 8 a.m. at a junior high school or middle school and 9 a.m. at a high school.]~~

Existing law requires the board of trustees of a school district or the governing body of a charter school to provide certain courses of study. (NRS 389.018-389.074) ~~[Section 2 of this]~~ This bill requires the board of trustees of a school district or the governing body of a charter school that operates as a high school to ~~[establish in]~~ ensure that an elective course of instruction in ethnic studies is offered and made available to each pupil in a public high school or charter school, as applicable . ~~[, a course of instruction in ethnic studies. Section 3 of this bill requires a pupil to enroll in such a course while in high school, and section 2 requires the pupil to pass the course in order to graduate from high school. Section 4 of this bill requires the Council to Establish Academic Standards for Public Schools to establish standards of content and performance for a course in ethnic studies.]~~ Such a course may be provided at the school or as a course of distance education.

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

Section 1. ~~[Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*Each school district shall set the time for the commencement of the school day which must not be earlier than 7 a.m. for an elementary school, 8 a.m. for a junior high school or middle school and 9 a.m. for a high school.]*~~
(Deleted by amendment.)

Sec. 2. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[1.]~~ The board of trustees of each school district and the governing body of each charter school that operates as a high school shall ~~establish in~~ ensure that an elective course of instruction in ethnic studies is offered and made available to each pupil who is enrolled in a public high school within the school district or in the charter school, as applicable . ~~[a] Such a course of instruction in ethnic studies~~ [which must] :

1. May be offered at the public school or as a course of distance education; and

2. Must include, without limitation, instruction concerning the culture, history and contributions of African Americans, Hispanic Americans, Native Americans, Asian Americans, European Americans, Basque Americans and any other ethnic Americans deemed appropriate, with emphasis on human relations and sensitivity toward all races.

~~[2. No pupil in any public high school, any charter school that operates as a high school, the Caliente Youth Center, the Nevada Youth Training Center or any other state facility for the detention of children operated pursuant to title 5 of NRS may receive a certificate or diploma of graduation without having passed the course in ethnic studies established pursuant to this section.~~

~~3. The State Board shall adopt such regulations as it determines are necessary to carry out the provisions of this section.]~~

Sec. 3. ~~[NRS 389.018 is hereby amended to read as follows:~~

~~389.018 1. The following subjects are designated as the core academic subjects that must be taught, as applicable for grade levels, in all public schools, 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:~~

~~(a) English, including reading, composition and writing;~~

~~(b) Mathematics;~~

~~(c) Science; and~~

~~(d) Social studies, which includes only the subjects of history, geography, economics and government.~~

~~2. Except as otherwise provided in this subsection, a pupil enrolled in a public high school must enroll in a minimum of:~~

~~(a) Four units of credit in English;~~

~~(b) Four units of credit in mathematics, including, without limitation, Algebra I and geometry, or an equivalent course of study that integrates Algebra I and geometry;~~

~~(c) Three units of credit in science, including two laboratory courses; [and]~~

~~(d) Three units of credit in social studies, including, without limitation:~~

~~(1) American government;~~

~~(2) American history; and~~

~~(3) World history or geography [.] ; and~~

~~(e) One unit of credit in ethnic studies.~~

~~➤ A pupil is not required to enroll in the courses of study and credits required by this subsection if the pupil, the parent or legal guardian of the pupil and an administrator or a counselor at the school in which the pupil is enrolled mutually agree to a modified course of study for the pupil and that modified course of study satisfies at least the requirements for a standard high school diploma or an adjusted diploma, as applicable.~~

~~3. Except as otherwise provided in this subsection, in addition to the core academic subjects, the following subjects must be taught as applicable for grade levels and to the extent practicable in all public schools, 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:~~

- ~~— (a) The arts;~~
- ~~— (b) Computer education and technology;~~
- ~~— (c) Health; and~~
- ~~— (d) Physical education.~~

~~➤ If the State Board requires the completion of course work in a subject area set forth in this subsection for graduation from high school or promotion to the next grade, a public school shall offer the required course work. Except as otherwise provided for a course of study in health prescribed by subsection 1 of NRS 389.0185, unless a subject is required for graduation from high school or promotion to the next grade, a charter school is not required to comply with this subsection.] (Deleted by amendment.)~~

Sec. 4. ~~[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, 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 [.]; and~~
- ~~— (9) Ethnic studies.~~

~~— (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 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. 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. 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. The Council shall work in cooperation with the State Board to prescribe the examinations required by NRS 389.550.~~

~~7. 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.] (Deleted by amendment.)~~

Sec. 5. 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. 6. ~~[1.]~~ This act becomes effective ~~[upon:]~~:

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

2. ~~[This section and sections 1 and 5 of this act become effective on July 1, 2015:~~

~~3. Sections 2, 3 and 4 of this act become effective on] On July 1, 2016 [1.]~~, for all other purposes.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment to Senate Bill No. 211 strikes all provisions related to school start times, and requires school boards and charter high school governing bodies to ensure instruction in ethnic studies is available as an elective course to high school students, either in the school or through distance education. Such instruction shall be provided beginning with the 2016-2017 school year.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 220.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 494.

SUMMARY—Requires instruction on financial literacy in public middle schools and junior high schools. (BDR 34-654)

AN ACT relating to education; requiring instruction on financial literacy for pupils enrolled in middle school and junior high school in each school district and in each charter school that operates as a middle school or junior

high school; creating the Account for Instruction on Financial Literacy in the State General Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires instruction on financial literacy for pupils enrolled in high school in each school district and in each charter school that operates as a high school. (NRS 389.074) ~~[This]~~ Section 2 of this bill additionally requires instruction on financial literacy for pupils enrolled in middle school and junior high school in each school district and in each charter school that operates as a middle school or junior high school. ~~[This bill]~~ Section 2 requires the Council to Establish Academic Standards to include the standards of content and performance for a course of instruction in financial literacy in the standards of content and performance established by the Council for each middle school, junior high school and high school. Section 2 also requires that ~~[such]~~ instruction in financial literacy include certain topics and be provided within a course of study ~~[in mathematics]~~ for which the Council has established the relevant standards of content and performance. Section 1 of this bill creates the Account for Instruction on Financial Literacy in the State General Fund and provides that money in the Account may be used only for providing the instruction on financial literacy required by section 2.

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Account for Instruction on Financial Literacy is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants of money from any source for deposit in the Account. Any money from gifts and grants may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 2. The interest and income earned on the sum of the money in the Account and any unexpended appropriations made to the Account from the State General Fund must be credited to the Account. Any money remaining in the Account at the end of the 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.

2. Except as otherwise provided in subsection 1, the money in the Account may be used only for providing the instruction on financial literacy required by NRS 389.074. The State Board shall adopt regulations governing the distribution of money in the Account for this purpose.

~~[Section 1.]~~ *Sec. 2. NRS 389.074 is hereby amended to read as follows:*

389.074 1. The board of trustees of each school district and the governing body of each charter school that operates as a *middle school, junior high school or high school* shall ensure that instruction on financial literacy is provided to pupils enrolled in each public *middle school, junior*

high school and high school within the school district or in the charter school, as applicable. The instruction must include, without limitation:

(a) The skills necessary to develop financial responsibility, including, without limitation:

(1) Making reasonable financial decisions by analyzing the alternatives and consequences of those financial decisions;

(2) Locating and evaluating financial information from various sources;

(3) *Judging the quality of services offered by a financial institution;*

(4) Developing communication strategies to discuss financial issues;

~~[(4)]~~ (5) Controlling personal information; and

~~[(5)]~~ (6) Reviewing and summarizing federal and state consumer protection laws.

(b) The skills necessary to manage finances, including, without limitation:

(1) Developing a plan for spending and saving;

(2) Developing a system for keeping and using financial records; and

(3) Developing a personal financial plan.

(c) The skills necessary to understand the use of credit and the incurrence of debt, including, without limitation:

(1) Identifying the costs and benefits of various types of credit;

(2) *Understanding methods to manage debt and the consequences of acquiring debt;*

(3) *Understanding how interest rates, compounding frequency and the terms of a loan affect the cost of credit;*

(4) *Completing an application for a loan;*

(5) *Understanding different types of loans that are available, including, without limitation, payday loans, automobile loans, student loans and mortgages;*

(6) Explaining the purpose of a credit report, including, without limitation, the manner in which a credit report is used by lenders;

~~[(3)]~~ (7) Describing the rights of a borrower regarding his or her credit report;

~~[(4)]~~ (8) Identifying methods to avoid and resolve debt problems; and

~~[(5)]~~ (9) Reviewing and summarizing federal and state consumer credit protection laws.

(d) The skills necessary to understand the basic principles of saving and investing, including, without limitation:

(1) Understanding how saving and investing contribute to financial well-being;

(2) Understanding the methods of investing and alternatives to investing;

(3) Understanding how to buy and sell investments; ~~and~~

(4) *Understanding compound interest, including, without limitation, in the context of investments;*

(5) *Understanding various types of securities that may be purchased, including, without limitation, stocks and bonds; and*

(6) Understanding how the regulation of financial institutions protects investors.

(e) *The skills necessary to prevent and limit the consequences of identity theft and fraud.*

(f) *The skills necessary to understand the basic assessment of taxes, including, without limitation, understanding the manner in which taxes are computed by local, state and federal governmental entities.*

(g) *The skills necessary to understand the basic principles of insurance, including, without limitation:*

(1) *Understanding the function of various insurance policies; and*

(2) *Determining the quality of an insurance provider.*

2. The standards of content and performance for a course of instruction in financial literacy required by subsection 1 ~~{may}~~ must be included in the standards of content and performance established by the Council to Establish Academic Standards pursuant to NRS 389.520 for such a course in each public middle school, junior high school and high school, including, without limitation, each charter school that operates as a middle school, junior high school or high school. The instruction required by subsection 1 must be included within a course ~~{or program of instruction that pupils enrolled in high school are otherwise required to complete for graduation.}~~ of study ~~{in mathematics.}~~ for which the Council has established the relevant standards of content and performance.

3. The board of trustees of each school district and the governing body of each charter school that operates as a middle school, junior high school or high school shall encourage persons to:

(a) Donate money to the Account for Instruction on Financial Literacy created by section 1 of this act; and

(b) Volunteer time, expertise and resources to assist a school district, governing body of a charter school, public school or teacher in the provision of instruction in financial literacy.

~~{Sec. 2.}~~ Sec. 3. This act becomes effective on July 1, 2015.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment creates the Account for Instruction on Financial Literacy, allows the Superintendent of Public Instruction to receive gifts and grants for the Account and requires the State Board of Education to adopt regulations for the distribution of money in the Account. Amendment No. 494 to Senate Bill No. 220 removes the requirement that instruction in financial literacy be provided in mathematics and instead requires it be provided in a course of study for which relevant standards exist and requires school boards and charter schools to encourage persons to: donate money to the Account and volunteer in support of financial literacy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 320.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 441.

SUMMARY—Revises provisions relating to time shares. (BDR 10-1034)

AN ACT relating to time shares; requiring ~~feertain disclosures to be included in public offering statements filed with the Real Estate Division of the Department of Business and Industry by developers of time shares;~~ that the purchaser of a time share be provided with a disclosure statement containing certain disclosures before the purchaser enters into a contract of sale; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires a developer of a time share to file a public offering statement with the Real Estate Division of the Department of Business and Industry for approval for the purposes of applying for and being issued an initial permit to sell time shares by the Real Estate Administrator. The public offering statement must include certain disclosures. (NRS 119A.300, 119A.307)]~~ This bill requires that before the purchaser of a time share enters into a contract of sale, the purchaser must be provided with a disclosure statement containing certain ~~[additional]~~ disclosures ~~[to be included in a public offering statement]~~ which concern: (1) the expectations a person should have in purchasing a time-share interest; and (2) the resale of a time-share interest. The purchaser is required to sign and date the disclosure statement on the date of purchase.

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

Section 1. ~~[NRS 119A.307 is hereby amended to read as follows:~~

~~119A.307 1. The developer shall file a public offering statement with the Division for approval for use as prescribed in NRS 119A.300.~~

~~2. The public offering statement must include the following disclosures in substantially the following form, in at least 12 point bold type:~~

~~This Public Offering Statement is prepared by the Developer to provide you with basic and relevant information on a specific time share offering. The Developer or Owner of the offering that is the subject of this Public Offering Statement has provided certain information and documentation to the Real Estate Division of the Department of Business and Industry (the "Division") as required by law.~~

~~The statements contained in this Public Offering Statement are only summary in nature. A prospective purchaser should review the purchase contract, all documents governing the time share plan or provided or available to the purchaser and the sales materials. You should not rely upon oral representations as being correct. Refer to this public offering statement, the purchase contract and the documents governing the time share plan for correct representations.~~

~~While the Division makes every effort to confirm the information provided and to ensure that the offering will be developed, managed and operated as planned, there is no guarantee this will always be the~~

~~case. The Division cannot and does not make any promise or guarantee as to the viability or continuance of the offering or the financial future of the offering or any plan, club or association affiliated therewith.~~

~~The information included in this Public Offering Statement is applicable as of its effective date. Expenses of operation are difficult to predict accurately and even if accurately estimated initially, most expenses increase with the age of facilities and with increases in the cost of living.~~

~~The Division strongly suggests that before executing an agreement or contract, you read all of the documentation and information provided to you and seek additional assistance if necessary to assure that you understand all aspects of the offering and are aware of any potential adverse circumstances that could result from a time share purchase in this Offering.~~

~~The purchaser of a time share may cancel, by written notice, the contract of sale until midnight of the fifth calendar day following the date of execution of the contract. The right of cancellation may not be waived. Any attempt by the Developer to obtain a waiver results in a contract which is voidable by the purchaser. The notice of cancellation may be delivered personally to the Developer or sent by certified mail, return receipt requested, or by providing notice by express, priority or recognized overnight delivery service, with proof of service, to the business address of the Developer. The Developer must, within 20 days after receipt of the notice of cancellation, return all payments made by the Purchaser.~~

~~*Be aware that:*~~

~~*The future value of a time share interest is very uncertain; do not count on appreciation. The purchase of a time share interest should be based upon its value as a vacation experience or for spending leisure time, and not considered for purposes of acquiring an appreciating investment or with an expectation that the time share interest may be resold.*~~

~~*Resale of your time share interest may be subject to the Developer's restrictions, such as limitations on the posting of signs, limitations on the rights of other parties to enter the project unaccompanied, membership prerequisites or approval requirements, or the Developer's first right of refusal. You should check your contract for such restrictions and also note whether your purchase contract or note, or any other obligation, would affect your right to sell your time share interest.*~~

~~*You should consider the competition which you may experience from the Developer in attempting to resell your time share interest and the possibility that real estate brokers may not be interested in listing your time share interest or unit.*~~

~~The Developer may have limited your resale rights. Any future purchaser (other than a transfer to an immediate family member or as the result of death or divorce) who buys your time share interest from you will have severely limited opportunities to reserve occupancy in this time share plan.~~

~~3. The public offering statement must include, without limitation, the following information in a form prescribed by the Division:~~

~~(a) A brief history of the developer's business background, experience in real estate and regulatory history.~~

~~(b) A description of any judgment against the developer or sales and marketing entity which has a material adverse effect on the developer or the time share plan. If no such judgment exists, there must be a statement of such fact.~~

~~(c) The status of any pending proceeding to which the developer or sales and marketing entity is a party and which has a material adverse effect on the developer or the time share plan. If no such proceedings exist, there must be a statement of such fact.~~

~~(d) The name and address of the developer, the name of the time share plan and the address of each component site.~~

~~(e) A summary of the current annual budget of the project or the time share plan, including:~~

~~(1) The projected assessments for each type of unit offered in the time share plan; and~~

~~(2) A statement of property taxes assessed against the project and, if not included in the projected assessments, the projected amount of the purchaser's share of responsibility for the property taxes assessed against the project.~~

~~(f) A detailed description of the type of time share plan being offered, a description of the type of interest and use rights the purchaser will receive and a description of the total number of time shares in the time share plan at the time the permit is issued.~~

~~(g) A description of all restrictions, easements, reservations or zoning requirements which may limit the purchaser's use, sale, lease, transfer or conveyance of the time share. The description must include any restrictions to be imposed on time shares concerning the use of any of the accommodations or facilities, and whether there are restrictions upon children or pets. For the purposes of this paragraph:~~

~~(1) The description may reference a list of the documents containing the restrictions and state that the copies of the documents are available to the purchaser upon request.~~

~~(2) If there are any restrictions upon the sale, lease, transfer or conveyance of a time share, the description must include a statement, in at least 12 point bold type, in substantially the following form:~~

~~The sale, lease, transfer or conveyance of a time share is restricted or controlled.~~

~~(Immediately following this statement, a description of the nature of the restriction, limitation or control on the sale, lease, transfer or conveyance of the time share must be included.)~~

~~—(3) If there are no restrictions, there must be a statement of that fact.~~

~~—(h) A description of the duration, projected phases and operation of the time share plan.~~

~~—(i) A representation by the developer ensuring that the time share plan maintains a one to one use night to use right ratio. For the purposes of the ratio calculation in this paragraph, each purchaser must be counted according to the use rights held by that purchaser in any calendar year. For the purposes of this paragraph, "one to one use night to use right ratio" has the meaning ascribed to it in NRS 119A.525.~~

~~—(j) A summary of the organization of the association for the time share plan, the voting rights of the members, the developer's voting rights in that association, a description of what constitutes a quorum for voting purposes and at what point in the sales program the developer relinquishes his or her control of that association, if applicable, and any other information pertaining to that association which is material to the right of the purchaser to use a time share.~~

~~—(k) A description of the existing or proposed accommodations, including a description of the type and number of time shares in the accommodations which is expressed in periods of 7 day use availability or other time increments applicable to the time share plan and, if the accommodations are proposed or not yet completed or fully functional, an estimated date of completion. For the purposes of this paragraph, the type of accommodation must be described in terms of the number of bedrooms, bathrooms and sleeping capacity, and a statement of whether the accommodation contains a full kitchen. As used in this paragraph, "full kitchen" means a kitchen that includes, at a minimum, a dishwasher, range, sink, oven and refrigerator.~~

~~—(l) A description of any existing or proposed amenities of the time share plan and, if the amenities are proposed or not yet completed or fully functional, the estimated date of completion, including a description of the extent to which financial assurances have been made for the completion of any incomplete but promised amenities.~~

~~—(m) The name and principal address of the manager, if any, of the project or time share plan, as applicable, and a description of the procedures, if any, for altering the powers and responsibilities of the manager and for removing or replacing the manager.~~

~~—(n) A description of any liens, defects or encumbrances on or affecting the title to the time share which materially affects the purchaser's use of the units or facilities within the time share plan.~~

~~—(o) Any special fee due from the purchaser at closing, other than customary closing costs, together with a description of the purpose of the fee.~~

~~—(p) Any current or expected fees or charges to be paid by purchasers for the use of any amenities of the time share plan.~~

~~—(g) A statement of whether or not the amenities of the time share plan will be used exclusively by purchasers of time shares in, or authorized under, the time share plan and, if the amenities are not to be used exclusively by such purchasers or authorized users, a statement of whether or not the purchasers of time shares in the time share plan are required to pay any portion of the maintenance expenses of such amenities in addition to any fees for the use of such amenities.~~

~~—(r) A statement indicating that hazard insurance coverage is provided for the project.~~

~~—(s) A description of the purchaser's right to cancel the purchase contract.~~

~~—(t) A statement of whether or not the purchaser's deposit will be held by an escrow agent until the expiration of any right to cancel the contract or, if the purchaser's deposit will not be held by such an escrow agent, a statement that the purchaser's deposit will be immediately released to the developer and that the developer has posted a surety bond.~~

~~—(u) A statement that the deposit plus any interest earned must be returned to the purchaser if he or she elects to exercise his or her right of cancellation.~~

~~—(v) If the time share plan provides purchasers with the opportunity to participate in an exchange program, the name and address of the exchange company and a description of the method by which a purchaser may choose to participate in the exchange program.~~

~~—(w) A description of the reservation system, if applicable, which must include:~~

~~—(1) The name of the entity responsible for operating the reservation system, its relationship to the developer and the duration of any agreement for operation of the reservation system; and~~

~~—(2) A summary of the rules and regulations governing access to and use of the reservation system, including, without limitation, the existence of and an explanation regarding any priority reservation features that affect a purchaser's ability to make reservations for the use of a given accommodation on a first come, first served basis.~~

~~—(x) A description of the points system, if applicable, including, without limitation, whether additional points may be acquired by purchase or otherwise, in the future and the manner in which future purchases of points may be made, and the transferability of points to other persons, other years or other time share plans. The description must include:~~

~~—(1) A statement that no owner shall be prevented from using a time share as a result of changes in the manner in which point values may be used;~~

~~—(2) A statement that in the event point values are changed or adjusted, no owner shall be prevented from using his or her home resort, if any, in the same manner as was provided for under the original purchase contract; and~~

~~—(3) A description of any limitations or restrictions upon the use of point values.~~

~~—(y) A statement as to whether any unit within the time share plan is within a mixed-use project containing whole ownership condominiums.~~

~~— (z) A statement that documents filed with the Division as part of the statement of record which are not delivered to the purchaser are available from the developer upon request.~~

~~— (aa) For a time share plan with more than one component site, a description of each component site. With respect to a component site, the information required by subparagraph (2) and paragraphs (d), (k), (l), (p), (q) and (r) may be disclosed in written, graphic, tabular or any other form approved by the Division. In addition to the information required by paragraphs (a) to (z), inclusive, the description of a time share plan with more than one component site must include the following information:~~

~~— (1) A general statement as to whether the developer has a right to make additions, substitutions or deletions of any accommodations, amenities or component sites, and a statement of the basis upon which accommodations, amenities or component sites may be added to, substituted for or deleted from the time share plan.~~

~~— (2) The location of each component site of the time share plan, the historical occupancy of the units in each component site for the previous 12-month period, if the component site was part of the time share plan during the previous 12-month time period, or any other description acceptable to the Division that reasonably informs a purchaser regarding the relative use demand per component site, as well as a statement of any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual use patterns and changes in use demand for the accommodations existing at that time within the time share plan.~~

~~— (3) The number of accommodations and time shares, expressed in periods of 7 day use availability or other time increments applicable to the time share plan, committed to the time share plan, and available for use by purchasers, and a statement describing how adequate periods of time for maintenance and repair will be provided.~~

~~— (bb) Any other information that the developer, with the approval of the Administrator, decides to include in the public offering statement.~~

~~— 4. Copies of the following documents and plans, or proposed documents if the time share plan has not been declared or created at the time the application for a permit is submitted, to the extent they are applicable, must be provided to the purchaser with the public offering statement:~~

~~— (a) Copies of the time share instruments.~~

~~— (b) The estimated or, if applicable, actual operating budget of the time share plan.~~

~~— 5. The public offering statement must include a list of the following documents, if applicable to the time share plan, and must state that the documents listed are available to the purchaser upon request:~~

~~— (a) Any ground lease or other underlying lease of the real property associated with the time share plan.~~

~~— (b) The management agreement of the project or time share plan, as applicable.~~

~~— (e) The floor plan of each type of accommodation and any existing plot plan showing the location of all accommodations and facilities declared as part of the time share plan and filed with the Division.~~

~~— (d) The lease for any facilities that are part of the time share plan.~~

~~— (e) Any executed agreement for the escrow of payments made to the developer before closing.~~

~~— (f) Any letter from the escrow agent confirming that the escrow agent and its officers, directors or other partners are independent.~~

~~— 6. The Administrator may, upon finding that the subject matter is otherwise adequately covered or the information is unnecessary or inapplicable, waive any requirement set forth in this section.] (Deleted by amendment.)~~

Sec. 1.5. Chapter 119A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before a purchaser of a time share enters into a contract of sale, the purchaser must be provided with a disclosure statement that contains the disclosures set forth in subsection 2. The purchaser shall sign and date the disclosure statement on the date of purchase.

2. The disclosure statement provided to the purchaser of a time share pursuant to subsection 1 must be in substantially the following form, in at least 14-point bold type:

By signing this disclosure statement, you are indicating that you understand the following:

Any time-share interest is for personal use and is not an investment for a profit or tax advantage. The purchase of a time-share interest should be based upon its value as a vacation experience or for spending leisure time, and not considered for purposes of acquiring an appreciating investment or with an expectation that the time-share interest may be resold.

Resale of your time-share interest may be subject to restrictions, including, without limitation, limitations on the posting of signs, limitations on the rights of other parties to enter the project unaccompanied, membership prerequisites or approval requirements, the developer's right of first refusal and the developer's continued sale of time-share inventory. Any future purchaser may not receive any ancillary benefits which were not part of the time-share plan that the developer may have offered to the purchaser at the time of purchase.

You should check your contract and the governing documents for any such restrictions and also note whether your purchase contract or note, or any other obligation, would affect your right to sell your time-share interest. Real estate agents may not be interested in listing your time-share interest or unit.

Sec. 2. This act becomes effective on July 1, 2015.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment deletes all sections of the bill and adds a new section 1.5, which requires a disclosure statement, the text of which is included in the bill, be provided to, and signed and dated by, a purchaser of a time-share unit before the purchaser enters into a sales contract.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 354.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 412.

SUMMARY—Authorizes the use of motorized wheelchairs and the movement of other pedestrians in bicycle lanes ~~and~~ under certain circumstances. (BDR 43-894)

AN ACT relating to public safety; authorizing under certain circumstances the operation of a motorized wheelchair and the movement of other pedestrians on ~~any path or~~ a highway or a lane set aside for the use of bicycles and electric bicycles; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a motorized wheelchair is considered a pedestrian for the purposes of various traffic laws and rules of the road. (NRS 484A.010, 484A.165) Existing law also prohibits a pedestrian from walking along and upon a highway if a sidewalk exists adjacent to the highway. (NRS 484B.297) Section 4 of this bill authorizes a ~~person to operate a motorized wheelchair on a pathway or lane provided for bicycles or electric bicycles, but requires that the person operating such a motorized wheelchair must, whenever practicable, yield the right of way to a person riding a bicycle or an electric bicycle in the same pathway or lane. (NRS 484B.297) Section 3 of this bill provides for a motorized wheelchair the same protections from motor vehicles afforded to a bicycle or an electric bicycle which is being lawfully operated on a pathway or lane provided for bicycles, electric bicycles and motorized wheelchairs. (NRS 484B.270))~~ pedestrian to travel onto the adjacent highway if a short section of the sidewalk is impassable or missing. Such a pedestrian may walk or otherwise travel in a lane provided for bicycles and electric bicycles if the area between the lane and the sidewalk is impassable. Section 4 also requires such a pedestrian to stay as close to the side of the highway near the sidewalk as possible, and to return to the sidewalk as soon as practicable. A violation of ~~these sections]~~ this section is a misdemeanor under existing law. (NRS 484A.900) ~~[Section 1 of this bill clarifies that a motorized wheelchair is not subject to the requirement for the registration of most vehicles. (NRS 482.210) Section 2 of this bill clarifies that a person who operates a motorized wheelchair does not have to possess a valid driver's license. (NRS 483.090,~~

~~483.230) Section 5 of this bill exempts a person operating a motorized wheelchair from various duties required and obligations of the rider of a bicycle or an electric bicycle, and exempts motorized wheelchairs from certain equipment requirements that are imposed on bicycles and electric bicycles. (NRS 484B.760, 484B.768-484B.783) Section 7 of this bill clarifies that a motorized wheelchair is not subject to certain laws regarding motorcycles, and section 8 of this bill clarifies that a motorized wheelchair is not a motor vehicle for the purposes of certain laws relating to alternative fuels. Sections 9-11 of this bill make conforming changes to various laws governing the design, designation and use of pathways or lanes provided for bicycles and electric bicycles to reflect the authorization of motorized wheelchairs to travel in such pathways or lanes.]~~

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

Section 1. ~~[NRS 482.210 is hereby amended to read as follows:~~

~~482.210 [1.] The provisions of this chapter requiring the registration of certain vehicles do not apply to:~~

~~—[(a)] 1. Special mobile equipment;~~

~~—[(b)] 2. Implements of husbandry temporarily drawn, moved or otherwise propelled upon the highways;~~

~~—[(c)] 3. Any mobile home or commercial coach subject to the provisions of chapter 489 of NRS;~~

~~—[(d)] 4. Electric bicycles;~~

~~—[(e)] 5. Golf carts which are:~~

~~—[(1)] (a) Traveling upon highways properly designated by the appropriate city or county as permissible for the operation of golf carts; and~~

~~—[(2)] (b) Operating pursuant to a permit issued pursuant to this chapter;~~

~~—[(f)] 6. Mopeds;~~

~~—[(g)] 7. Towable tools or equipment as defined in NRS 484D.055;~~

~~—[(h)] Any]~~

~~—8. A motorized [conveyance for a] wheelchair, whose operator is a person with a disability who [is unable to walk about;~~

~~—2. For the purposes of this section, "motorized conveyance for a wheelchair" means a vehicle which:~~

~~—(a) Can carry a wheelchair;~~

~~—(b) Is propelled by an engine which produces not more than 3 gross brake horsepower, has a displacement of not more than 50 cubic centimeters or produces not more than 2250 watts final output;~~

~~—(c) Is designed to travel on not more than three wheels; and~~

~~—(d) Can reach a speed of not more than 30 miles per hour on a flat surface with not more than a grade of 1 percent in any direction.~~

~~→ The term does not include a tractor.] *uses the wheelchair for mobility purposes.* (Deleted by amendment.)~~

Sec. 2. ~~[NRS 483.090 is hereby amended to read as follows:~~

~~483.090 "Motor vehicle" means every vehicle which is self propelled, and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails. "Motor vehicle" includes a moped. The term does not include an electric bicycle ~~[.] or a motorized wheelchair.~~ (Deleted by amendment.)~~

Sec. 3. NRS 484B.270 is hereby amended to read as follows:

484B.270 1. The driver of a motor vehicle shall not intentionally interfere with the movement of a person lawfully riding a bicycle or an electric bicycle ~~or for operating a motorized wheelchair.~~

2. When overtaking or passing a bicycle ~~or~~ or electric bicycle ~~for motorized wheelchair~~ proceeding in the same direction, the driver of a motor vehicle shall exercise due care and:

(a) If there is more than one lane for traffic proceeding in the same direction, move the vehicle to the lane to the immediate left, if the lane is available and moving into the lane is reasonably safe; or

(b) If there is only one lane for traffic proceeding in the same direction, pass to the left of the bicycle ~~or~~ or electric bicycle ~~for motorized wheelchair~~ at a safe distance, which must be not less than 3 feet between any portion of the vehicle and the bicycle ~~or~~ or electric bicycle ~~or motorized wheelchair.~~ and shall not move again to the right side of the highway until the vehicle is safely clear of the overtaken bicycle ~~or~~ or electric bicycle ~~or motorized wheelchair.~~

3. The driver of a motor vehicle shall yield the right-of-way to any person riding a bicycle or an electric bicycle ~~or for operating a motorized wheelchair~~ pedestrian as provided in subsection 6 of NRS 484B.297 on the ~~or~~ pathway or lane ~~or provided for bicycles, electric bicycles and motorized wheelchairs.~~ The driver of a motor vehicle shall not enter, stop, stand, park or drive within a pathway or lane provided for bicycles ~~or~~ or electric bicycles ~~for motorized wheelchairs~~ except:

- (a) When entering or exiting an alley or driveway;
- (b) When operating or parking a disabled vehicle;
- (c) To avoid conflict with other traffic;
- (d) In the performance of official duties;
- (e) In compliance with the directions of a police officer; or
- (f) In an emergency.

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

5. The driver of a motor vehicle shall:

- (a) Exercise due care to avoid a collision with a person riding a bicycle or an electric bicycle ~~or for operating a motorized wheelchair~~ and
- (b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision.

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

7. The operator of a bicycle ~~or~~ or an electric bicycle ~~for a motorized wheelchair~~ shall not:

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

Sec. 4. NRS 484B.297 is hereby amended to read as follows:

484B.297 1. ~~[Where]~~ *Except as otherwise provided in subsection 6, where sidewalks are provided, it is unlawful for any pedestrian to walk along and upon an adjacent highway.*

2. ~~[Pedestrians]~~ *Except as otherwise provided in subsection 6, pedestrians walking along highways where sidewalks are not provided shall walk on the left side of those highways facing the approaching traffic.*

3. A person shall not stand in a highway to solicit a ride or any business from the driver or any occupant of a vehicle. A person shall not, without a permit issued pursuant to NRS 244.3555 or 268.423, solicit any contribution from the driver or any occupant of a vehicle.

4. It is unlawful for any pedestrian who is under the influence of intoxicating liquors or any narcotic or stupefying drug to be within the traveled portion of any highway.

5. The provisions of this section apply to riders of animals, except that the provisions of subsections 1, 2 and 3 do not apply to a peace officer who rides an animal while performing his or her duties as a peace officer.

6. ~~A person operating a motorized wheelchair may operate the motorized wheelchair on a pathway or lane provided for bicycles or electric bicycles but must, whenever practicable, yield the right of way to any person riding a bicycle or an electric bicycle traveling on the same pathway or lane as the motorized wheelchair.~~ *pedestrian walking or otherwise traveling on a sidewalk who encounters an obstruction to his or her mobility on the sidewalk, including, without limitation, a short section of the sidewalk that is missing or impassable, may proceed with due care on the immediately adjacent highway to move around such an obstruction. Such a pedestrian:*

(a) Must walk or otherwise travel as far to the side of the highway near the sidewalk as possible;

(b) May walk or otherwise travel on the highway in the direction he or she was walking or traveling on the sidewalk, regardless of the direction of traffic;

(c) May walk or otherwise travel in a lane provided for bicycles or electric bicycles if the area between the lane and the sidewalk is impassable; and

(d) Must return to the sidewalk as soon as practicable.

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

Sec. 5. ~~[NRS 484B.760 is hereby amended to read as follows:~~

~~484B.760 1. It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in NRS 484B.768 to 484B.783, inclusive.~~

~~2. The parent of any child and the guardian of any ward shall not authorize or knowingly permit the child or ward to violate any of the provisions of chapters 484A to 484E, inclusive, of NRS.~~

~~3. The provisions applicable to bicycles and electric bicycles apply whenever a bicycle or an electric bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles, [or] electric bicycles or motorized wheelchairs subject to those exceptions stated herein.~~

~~4. Except as otherwise specifically provided, the provisions of NRS 484B.768 to 484B.783, inclusive, do not apply to a person operating a motorized wheelchair.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 484B.777 is hereby amended to read as follows:~~

~~484B.777 1. Every person operating a bicycle or an electric bicycle upon a roadway shall, except:~~

~~(a) When traveling at a lawful rate of speed commensurate with the speed of any nearby traffic;~~

~~(b) When preparing to turn left; or~~

~~(c) When doing so would not be safe;~~

~~ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.~~

~~2. Persons riding bicycles or electric bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles, [or] electric bicycles [.] and motorized wheelchairs.] (Deleted by amendment.)~~

Sec. 7. ~~[NRS 486.041 is hereby amended to read as follows:~~

~~486.041 "Motoreycle" means every motor vehicle equipped with a seat or a saddle for the use of the driver and designed to travel on not more than three wheels in contact with the ground, excluding an electric bicycle as defined in NRS 483.067, a tractor, a motorized wheelchair and a moped.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 486A.110 is hereby amended to read as follows:~~

~~486A.110 "Motor vehicle" means every vehicle which is self propelled, but not operated on rails, used upon a highway for the purpose of transporting persons or property. The term does not include:~~

~~1. An electric bicycle as defined in NRS 483.067;~~

~~2. A farm tractor as defined in NRS 482.035;~~

~~3. A moped as defined in NRS 482.069;~~

~~4. A motoreycle as defined in NRS 482.070; [and]~~

~~5. A vehicle having a manufacturer's gross vehicle weight rating of more than 26,000 pounds, unless the vehicle is designed for carrying more than 15 passengers [-]; and~~

~~6. A motorized wheelchair. (Deleted by amendment.)~~

Sec. 9. ~~[NRS 408.234 is hereby amended to read as follows:~~

~~408.234 1. The position of Motor Vehicle Recovery and Transportation Planner is hereby created in the Department.~~

~~2. The Motor Vehicle Recovery and Transportation Planner shall:~~

~~(a) Develop and administer a plan for the construction of motor vehicle recovery and bicycle lanes that are not less than 3 feet wide in all new construction and major repair work on every highway in the State, in accordance with appropriate standards of design;~~

~~(b) Develop a plan for the maintenance of motor vehicle recovery and bicycle lanes throughout the State;~~

~~(c) Prepare and distribute information on motor vehicle recovery and bicycle lanes, bicycle safety manuals and bicycle route maps throughout the State;~~

~~(d) Develop standards for the design of motor vehicle recovery and bicycle lanes and bicycle paths and routes;~~

~~(e) Develop standardized signs and markings which indicate bicycle lanes;~~

~~(f) Determine where appropriate signs and markings will be located on state highways and coordinate their placement;~~

~~(g) Establish a statewide plan of motor vehicle recovery and bicycle lanes and bicycle paths and routes and update the plan annually;~~

~~(h) Identify projects which are related to motor vehicle recovery and bicycle lanes and place each project in its proper order of priority;~~

~~(i) Investigate possible sources of money which may be available to promote motor vehicle recovery and bicycle lanes and bicycle facilities and programs throughout this State and solicit money from those sources;~~

~~(j) Provide assistance to the Department of Motor Vehicles and the Department of Public Safety in coordinating activities which are related to motor vehicle and bicycle safety in the communities of this State;~~

~~(k) Investigate the programs of the Rails to Trails Conservancy and where feasible, participate in those programs;~~

~~(l) Identify the potential effect of bicycle programs on tourism in this State; and~~

~~(m) Carry out any other duties assigned to him or her by the Director.~~

~~3. The Director may remove any of the duties set out in subsection 2 if the Director determines that the duty is no longer necessary or appropriate.~~

~~4. As used in this section, "bicycle" has the meaning ascribed to it in NRS 484A.025 and includes an electric bicycle as defined in NRS 482.0287 [-] and a motorized wheelchair. (Deleted by amendment.)~~

Sec. 10. ~~[NRS 408.571 is hereby amended to read as follows:~~

~~408.571 1. The Department shall develop an educational program concerning bicycle and pedestrian safety which must be:~~

~~— (a) Suitable for children and adults; and~~
~~— (b) Developed by a person who is trained in the techniques of bicycle and pedestrian safety.~~

~~— 2. The program must be designed to:~~

~~— (a) Aid bicyclists in improving their riding skills;~~
~~— (b) Inform bicyclists and pedestrians of applicable traffic laws and encourage observance of those laws; and~~
~~— (c) Promote bicycle and pedestrian safety.~~

~~— 3. As used in this section, "bicycle" has the meaning ascribed to it in NRS 484A.025 and includes an electric bicycle as defined in NRS 482.0287 [.] and a motorized wheelchair.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 408.579 is hereby amended to read as follows:~~

~~408.579 Electric bicycles, as defined in NRS 482.0287, and motorized wheelchairs must be allowed on any trail or pedestrian walkway that is intended for use by bicycles and is constructed using federal funding obtained pursuant to 23 U.S.C. § 217.] (Deleted by amendment.)~~

Sec. 12. 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.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Amendment No. 412 to Senate Bill No. 354 allows a pedestrian travelling on a sidewalk who encounters an obstruction that makes the sidewalk impassable to proceed carefully on the highway immediately adjacent to the sidewalk to move around the obstruction.

Such a pedestrian: must travel as far to the side of the highway near the sidewalk as possible; may travel in the direction in which he or she was traveling on the sidewalk, regardless of the direction of traffic; may travel in a bicycle lane if the area between the lane and the sidewalk is impassable, and must return to the sidewalk as soon as practicable.

The driver of a motor vehicle must yield the right-of-way to any pedestrian traveling in such circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 371.

Bill read second time.

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

Amendment No. 484.

SUMMARY—Revises provisions governing the use of apprentices on public works. (BDR 53-671)

AN ACT relating to apprentices; requiring the State Apprenticeship Council to approve or deny certain written requests submitted by a public body concerning the required use of an apprentice on a public work; authorizing the Council to suspend the right of a contractor on a public work

to participate in a program of apprenticeship under certain circumstances; requiring a public body that awards a contract for a public work to ensure an apprentice performs a certain percentage of the total hours of labor on the public work; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the State Apprenticeship Council and requires the Council to establish standards for programs of apprenticeship. (NRS 610.030, 610.090, 610.095) The purposes of such programs include, without limitation: (1) the creation of an opportunity for persons to obtain training that will equip those persons for profitable employment and citizenship; and (2) the establishment of an organized program for the voluntary training of those persons by providing facilities for training and guidance in the arts and crafts of industry and trade. (NRS 610.020) Existing law sets forth the requirements for a public body which sponsors or finances a public work to award a contract to a contractor for the construction of the public work. (Chapter 338 of NRS) Such requirements include, without limitation: (1) the payment of the prevailing wage in the county in which the public work is located; and (2) the establishment of certain fair employment practices for contractors in connection with the performance of work under the contract awarded by the public body. Section 4 of this bill requires a public body that awards a contract for a public work for which the estimated cost exceeds \$1,000,000 to ensure that an apprentice performs not less than ~~[15]~~ 10 percent of the total hours of labor on the public work. Section 4 also imposes that requirement upon the Department of Transportation if the estimated cost of the contract exceeds \$2,000,000. In addition, section 4 authorizes a public body to submit, pursuant to section 1 of this bill, a request to the Council for a waiver or modification of the requirement to use an apprentice on a public work for the minimum percentage of hours. Section 3 of this bill authorizes the Council to suspend, for not more than 1 year, the right of any contractor on a public work to participate in a program of apprenticeship if the Council determines that the contractor willfully violated the provisions of the contract concerning the use of an apprentice on the public work for the minimum percentage of hours. Section 5 of this bill expands the definition of "offense" set forth in existing law to include the failure by a contractor to ensure that an apprentice is used on a public work for the required number of hours, thereby subjecting the contractor to a possible civil action to recover damages resulting from the commission of the offense and the temporary disqualification of the contractor from an award of a contract for a public work. (NRS 338.010, 338.016, 338.017)

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

Section 1. Chapter 610 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *If, pursuant to section 4 of this act, a public body submits a written request for a waiver or modification of the requirements of that section, the*

State Apprenticeship Council shall, within ~~30~~ 90 days after receiving the request:

- (a) Approve or deny the request in writing; and*
- (b) Notify the public body of the approval or denial of the request.*

2. In approving or denying a request submitted pursuant to subsection ~~2~~ 1, the State Apprenticeship Council shall:

(a) Balance the purposes of programs specified in NRS 610.020 and the need for cost-effective and efficient completion of public works; and

(b) Consider:

(1) Whether a demonstrated lack of qualified apprentices exists in a specific geographic area;

(2) Whether a disproportionately high ratio of material costs to labor costs for a public work makes the minimum hours of labor required to be performed by an apprentice for the public work unfeasible; and

(3) Any other information specified by the State Apprenticeship Council.

3. A decision by the Council pursuant to this section is subject to review by the Labor Commissioner pursuant to NRS 607.207.

Sec. 2. NRS 610.095 is hereby amended to read as follows:

610.095 The State Apprenticeship Council shall:

1. Register and approve or reject proposed programs and standards for apprenticeship.

2. After providing notice and a hearing and for good cause shown, deny an application for approval of a program, suspend, terminate, cancel or place conditions upon any approved program, or place an approved program on probation for any violation of the provisions of this title as specified in regulations adopted by the State Apprenticeship Council.

3. Approve or deny written requests for waivers or modifications submitted pursuant to section 1 of this act.

Sec. 3. NRS 610.185 is hereby amended to read as follows:

610.185 The State Apprenticeship Council ~~shall~~:

1. Shall suspend for 1 year the right of any employer, association of employers or organization of employees acting as agent for an employer to participate in a program under the provisions of this chapter if the Nevada Equal Rights Commission, after notice and hearing, finds that the employer, association or organization has discriminated against an apprentice because of race, color, creed, sex, sexual orientation, gender identity or expression, religion, disability or national origin in violation of this chapter.

2. May suspend for not more than 1 year the right of any contractor on a public work to participate in a program pursuant to the provisions of this chapter if the State Apprenticeship Council determines that, during any period in which the labor of an apprentice is used on a public work, as required by section 4 of this act, a contractor willfully violated the terms of the contract for the public work, including, without limitation, any ratios of apprentices to journeymen, supervision, wages, and methods of work set

forth in the contract. As used in this subsection, "public work" has the meaning ascribed to it in NRS 338.010.

Sec. 4. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections 2 and 3, if a public body awards a contract for which the estimated cost exceeds \$1,000,000, the public body shall ensure that an apprentice performs not less than ~~15~~ 10 percent of the total hours of labor on the public work.

2. Except as otherwise provided in subsection 3, if the Department of Transportation awards a contract for which the estimated cost exceeds \$2,000,000, the Department shall ensure that an apprentice performs not less than ~~15~~ 10 percent of the total hours of labor on the public work.

3. A public body may, pursuant to section 1 of this act, submit a written request to the State Apprenticeship Council for a waiver or modification of the requirements of subsection 1 or 2, as applicable. If a public body submits such a request, the public body shall not request bids for or enter into a contract for which the public body submitted the request until the State Apprenticeship Council approves or denies the request pursuant to section 1 of this act.

4. Each contractor engaged on a public work requiring the use of apprentices pursuant to this section shall ensure that an apprentice is used on the public work for at least the minimum percentage of hours of labor required for the public work.

5. As used in this section, "apprentice" has the meaning ascribed to it in NRS 610.010.

Sec. 5. 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; ~~for~~
- (d) Comply with subsection 5 or 6 of NRS 338.070 ~~for~~; or
- (e) *Ensure that an apprentice is used on a public work for the minimum amount of hours of labor required pursuant to section 4 of this act.*

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:

- (a) A project financed in whole or in part from public money for:
 - (1) Public buildings;
 - (2) Jails and prisons;
 - (3) Public roads;

- (4) Public highways;
- (5) Public streets and alleys;
- (6) Public utilities;
- (7) Publicly owned water mains and sewers;
- (8) Public parks and playgrounds;
- (9) Public convention facilities which are financed at least in part with public money; and
- (10) 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. 6. NRS 338.015 is hereby amended to read as follows:

338.015 1. The Labor Commissioner shall enforce the provisions of NRS 338.010 to 338.130, inclusive ~~[-]~~, *and section 4 of this act*.

2. In addition to any other remedy or penalty provided in this chapter, if any person, including, without limitation, a public body, violates any provision of NRS 338.010 to 338.130, inclusive, *and section 4 of this act* or any regulation adopted pursuant thereto, the Labor Commissioner may, after providing the person with notice and an opportunity for a hearing, impose against the person an administrative penalty of not more than \$5,000 for each such violation.

3. The Labor Commissioner may, by regulation, establish a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the person pursuant to this section.

4. The Labor Commissioner shall report the violation to the Attorney General, and the Attorney General may prosecute the person in accordance with law.

Sec. 7. The amendatory provisions of this act do not apply to a contract for a public work that is awarded before July 1, 2015.

Sec. 8. This act becomes effective on July 1, 2015.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Amendment No. 484 makes two changes to Senate Bill No. 371; 1) reduces from 15 percent to 10 percent the total hours of labor an apprentice must perform on a public work under the provisions of this bill; 2) increases the number of days, from 30 to 90, that the State Apprenticeship Council must approve or deny a request in writing for a waiver or modification by a public body to use an apprentice for the minimum percentage of hours.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 388.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 399.

SUMMARY—Establishing additional fees for filing certain motions in a divorce action. (BDR 2-1046)

AN ACT relating to civil actions; establishing additional fees for filing certain motions in a divorce action under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a county clerk to charge and collect certain fees relating to certain civil actions and proceedings in district court. (NRS 19.013-19.0335) This bill provides that if a district court has issued a final order in a divorce action that was commenced by the parties filing a joint petition, the county clerk must charge and collect: (1) an additional fee of \$129 the first time that a party files a motion to modify adjust or enforce that final order; and (2) an additional fee of \$57 the first time that the other party files an opposition, answer or response to such a motion. This bill requires that the proceeds of those additional fees must only be used ~~[by the juvenile courts for the performance of competency evaluations in delinquency hearings and the provision of specialty court programs.]~~ for certain purposes which benefit the district court.

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

Section 1. Chapter 19 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In addition to any other fees required by law, the first time a party files a motion or other paper that seeks to modify, ~~for~~ adjust or enforce a final order that was issued pursuant to chapter 125 of NRS, the county clerk shall, if the original action was commenced by a petition for divorce filed by the parties jointly, collect:*

(a) A fee of \$129 to be paid by the party who files the motion or other paper; and

(b) A fee of \$57 to be paid by the party who files an opposition, answer or response to the motion or other paper.

2. *On or before the fifth day of each month, the county clerk shall account for and pay to the county treasurer all fees collected pursuant to subsection 1 during the preceding month. The county treasurer shall place the money in a special account in the county general fund administered by the county for the ~~use~~ benefit of the ~~juvenile~~ district court. The county shall not charge a fee for administering the account. The money in the account must be used only ~~for~~*

~~*(a) The performance of competency evaluations in delinquency hearings; and*~~

~~*(b) The provision of specialty court programs in the juvenile court.*~~ *to:*

(a) Acquire land on which to construct additional facilities for the district court or a regional justice center that includes the district court;

(b) Construct or acquire additional facilities for the district court or a regional justice center that includes the district court;

(c) Renovate or remodel existing facilities for the district court or a regional justice center that includes the district court;

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the district court or a regional justice center that includes the district court;

(e) Acquire advanced technology;

(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 district court or a regional justice center that includes the district court; and

(g) Establish or support a civil family law self-help center operated or overseen by the district court.

↪ Money that remains in the account at the end of a fiscal year does not revert to the county general fund, and the balance in the account must be carried forward to the next fiscal year.

Sec. 2. This act becomes effective on July 1, 2015.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

This amendment to Senate Bill No. 388 makes minor technical corrections to language in the bill concerning a motion to adjust or enforce an order or an opposition to such a motion. Additionally, the amendment sets forth specific uses for which funds addressed in the bill may be designated and provides that unused funds must be carried over from one fiscal year to the next.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 395.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 439.

SUMMARY—Revises provisions governing domestic relations.
(BDR 11-530)

AN ACT relating to domestic relations; ~~authorizing the marriage of two persons of any gender under certain circumstances;~~ revising provisions relating to fees charged and collected for the issuance of a marriage license; authorizing a board of county commissioners to adopt an ordinance imposing an additional fee for the issuance of a marriage license which must be used to promote marriage tourism in the county; authorizing a county to provide a space at certain county clerk offices for the display of informational brochures of certain ~~commercial wedding chapels;~~ persons who perform weddings; revising provisions relating to the division of community property and liabilities in certain domestic relations actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under the Nevada Constitution, only marriage between one man and one woman is recognized. (Nev. Const. Art. 1, § 21) On October 9, 2014, the United States Court of Appeals for the Ninth Circuit enjoined the State of~~

~~Nevada, its political subdivisions, and its officers, employees and agents, from enforcing any constitutional provision, statute, regulation or policy preventing same sex couples from marrying. *Seveik v. Sandoval*, No. 2:12 CV 00578 JCM PAL (D. Nev. Oct. 9, 2014) Existing law currently provides that one man and one woman may be joined in marriage. (NRS 122.090) Section 2 of this bill authorizes two people of the same sex to be joined in marriage, and sections 3, 5 55 and 57 64 of this bill make conforming changes. Section 65 of this bill provides that the authorization to join two people of the same sex in marriage expires upon a final court ruling upholding the constitutionality of Section 21 of Article 1 of the Nevada Constitution.]~~

Section 1 of this bill ~~[requires]~~ authorizes a county whose population is 100,000 or more (currently Clark and Washoe Counties) to provide a space outside each office and branch office of the county clerk in which a commercial wedding chapel, a licensed business which operates principally for the performance of weddings in the county or a church or religious organization incorporated, organized or established in this State may place informational brochures for display.

Under existing law, in granting a divorce, a court must, to the extent practicable, make an equal disposition of the community property of the parties, unless the action is contrary to a valid premarital agreement between the parties or the court makes written findings setting forth a compelling reason for making an unequal disposition of the community property. (NRS 125.150) The Nevada Supreme Court has held that under Rule 60(b) of the Nevada Rules of Civil Procedure, relief from a divorce decree dividing community property between the parties may be obtained by: (1) filing within 6 months after the final decree a motion for relief or modification from the decree because of mistake, newly discovered evidence or fraud; or (2) showing exceptional circumstances justifying equitable relief in an independent civil action. (*Kramer v. Kramer*, 96 Nev. 759, 762 (1980); *Amie v. Amie*, 106 Nev. 541, 542 (1990)) In *Doan v. Wilkerson*, 130 Nev. Adv. Op. 48 (2014), the Nevada Supreme Court held that exceptional circumstances justifying equitable relief do not exist when a particular item of community property was disclosed and considered in a divorce action but omitted from the divorce decree. Section 27 of this bill provides that at any time, a party in an action for divorce, separate maintenance or annulment may file a postjudgment motion to obtain an adjudication of any community property or liability that was omitted from the final decree. Section 27 further provides that the court has continuing jurisdiction to hear such a motion and must make an equal disposition of the omitted community property or liability unless the court finds that certain exceptions apply.

Under existing law, the county clerk is required to collect certain fees for the issuance of a marriage license. Sections 4 and 56 of this bill authorize a board of county commissioners in a county whose population is 700,000 or

more (currently Clark County) to adopt an ordinance imposing an additional fee of not more than \$14 for the issuance of a marriage license. Under section 56, if a board of county commissioners adopts such an ordinance, the fee must be deposited in a special revenue fund designated as the fund for the promotion of marriage tourism, and money in the fund must be used by the county clerk to promote marriage tourism in the county. Section 4 also specifically states that any administrative fee charged and collected by a county clerk's office, including, without limitation, a fee for providing a copy of a marriage license, is separate from any fee charged and collected for the issuance of a marriage license.

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

Section 1. Chapter 122 of NRS is hereby amended by adding thereto a new section to read as follows:

In each county whose population is 100,000 or more, the county ~~shall~~ may provide a space outside each office and branch office of the county clerk in which a commercial wedding chapel, a licensed business which operates principally for the performance of weddings in the county or a church or religious organization incorporated, organized or established in this State may place informational brochures for display.

Sec. 2. ~~[NRS 122.020 is hereby amended to read as follows:~~
~~122.020 1. Except as otherwise provided in this section, [a male and a female person,] two persons, regardless of gender, at least 18 years of age, not nearer of kin than second cousins or cousins of the half blood, and not having a husband or wife living, may be joined in marriage.~~
~~2. [A male and a female person] Two persons who are [the husband and wife of] married to each other may be rejoined in marriage if the record of their marriage has been lost or destroyed or is otherwise unobtainable.~~
~~3. A person at least 16 years of age but less than 18 years of age may marry only if the person has the consent of:~~
~~(a) Either parent; or~~
~~(b) Such person's legal guardian.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 122.050 is hereby amended to read as follows:~~
~~122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:~~

Marriage License

(Expires 1 Year After Issuance)

State of Nevada _____ }
_____ } ss.
County of _____ }

~~These presents are to authorize any minister, other church or religious official authorized to solemnize a marriage or notary public who has obtained a certificate of permission to perform marriages, any Supreme Court justice, judge of the Court of Appeals or district judge~~

~~within this State, or justice of the peace within a township wherein the justice of the peace is permitted to solemnize marriages or if authorized pursuant to subsection 3 of NRS 122.080, or a municipal judge if authorized pursuant to subsection 4 of NRS 122.080 or any commissioner of civil marriages or his or her deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage of (City, town or location), State of State of birth (If not in U.S.A., name of country); Date of birth Father's name Father's state of birth (If not in U.S.A., name of country) Mother's maiden name Mother's state of birth (If not in U.S.A., name of country) Number of this marriage (1st, 2nd, etc.) ... [Wife] Spouse #1 deceased Divorced Annulled When Where And of (City, town or location), State of State of birth (If not in U.S.A., name of country); Date of birth Father's name Father's state of birth (If not in U.S.A., name of country) Mother's maiden name Mother's state of birth (If not in U.S.A., name of country) Number of this marriage (1st, 2nd, etc.) ... [Husband] Spouse #2 deceased Divorced Annulled When Where; and to certify the marriage according to law.~~

~~Witness my hand and the seal of the county, this ... day of the month of of the year
(Seal) _____ Clerk _____~~

~~Deputy clerk] (Deleted by amendment.)~~

Sec. 4. NRS 122.060 is hereby amended to read as follows:

122.060 1. The county clerk is entitled to receive as his or her fee for issuing a marriage license the sum of \$21.

2. The county clerk shall also at the time of issuing the marriage license:

(a) Collect the sum of \$10 and:

(1) If the board of county commissioners has adopted an ordinance pursuant to NRS 246.100, deposit the sum into the county general fund pursuant to NRS 246.180 for filing the originally signed certificate of marriage described in NRS 122.120.

(2) If the board of county commissioners has not adopted an ordinance pursuant to NRS 246.100, pay it over to the county recorder as his or her fee for recording the originally signed certificate of marriage described in NRS 122.120.

(b) Collect the additional fee described in subsection 2 of NRS 246.180, if the board of county commissioners has adopted an ordinance authorizing the collection of such fee, and deposit the fee pursuant to NRS 246.190.

(c) *Collect the additional fee imposed pursuant to section 56 of this act, if the board of county commissioners has adopted an ordinance imposing the fee.*

3. The county clerk shall also at the time of issuing the marriage license collect the additional sum of \$4 for the State of Nevada. The fees collected for the State must be paid over to the county treasurer by the county clerk on

or before the fifth day of each month for the preceding calendar month, and must be placed to the credit of the State General Fund. The county treasurer shall remit quarterly all such fees deposited by the county clerk to the State Controller for credit to the State General Fund.

4. The county clerk shall also at the time of issuing the marriage license collect the additional sum of \$25 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be placed to the credit of that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the county clerk to the State Controller for credit to that Account.

5. *Any fee charged and collected pursuant to this section is separate and distinct from any administrative fee charged and collected by a county clerk's office, including, without limitation, a fee for certifying a copy of a marriage license.*

Sec. 5. ~~[NRS 122.062 is hereby amended to read as follows:~~

~~122.062 1. Any licensed, ordained or appointed minister or other church or religious official authorized to solemnize a marriage in good standing within his or her church or religious organization, or either of them, incorporated, organized or established in this State, or a notary public appointed by the Secretary of State pursuant to chapter 240 of NRS and in good standing with the Secretary of State, may join together [as husband and wife] in marriage persons who present a marriage license obtained from any county clerk of the State, if the minister, other church or religious official authorized to solemnize a marriage or notary public first obtains a certificate of permission to perform marriages as provided in NRS 122.062 to 122.073, inclusive. The fact that a minister or other church or religious official authorized to solemnize a marriage is retired does not disqualify him or her from obtaining a certificate of permission to perform marriages if, before retirement, the minister or other church or religious official authorized to solemnize a marriage had active charge of a church or religious organization for a period of at least 3 years.~~

~~2. A temporary replacement for a licensed, ordained or appointed minister or other church or religious official authorized to solemnize a marriage certified pursuant to NRS 122.062 to 122.073, inclusive, may solemnize marriages pursuant to subsection 1 for a period not to exceed 90 days, if the requirements of this subsection are satisfied. The minister or other church or religious official authorized to solemnize a marriage whom he or she temporarily replaces shall provide him or her with a written authorization which states the period during which it is effective, and the temporary replacement shall obtain from the county clerk in the county in which he or she is a temporary replacement a written authorization to solemnize marriage and submit to the county clerk an application fee of \$25.~~

~~3. Any chaplain who is assigned to duty in this State by the Armed Forces of the United States may solemnize marriages if the chaplain obtains a certificate of permission to perform marriages from the county clerk of the county in which his or her duty station is located. The county clerk shall issue such a certificate to a chaplain upon proof of his or her military status as a chaplain and of his or her assignment.~~

~~4. A licensed, ordained or appointed minister, other church or religious official authorized to solemnize a marriage, active or retired, or a notary public may submit to the county clerk in the county in which a marriage is to be performed an application to perform a specific marriage in the county. The application must:~~

~~(a) Include the full names and addresses of the persons to be married;~~

~~(b) Include the date and location of the marriage ceremony;~~

~~(c) Include the information and documents required pursuant to subsection 1 of NRS 122.064; and~~

~~(d) Be accompanied by an application fee of \$25.~~

~~5. A county clerk may grant authorization to perform a specific marriage to a person who submitted an application pursuant to subsection 4 if the county clerk is satisfied that the minister or other church or religious official authorized to solemnize a marriage, whether he or she is active or retired, is in good standing with his or her church or religious organization or, in the case of a notary public, if the notary public is in good standing with the Secretary of State. The authorization must be in writing and need not be filed with any other public officer. A separate authorization is required for each marriage performed. A person may not obtain more than five authorizations to perform a specific marriage pursuant to this section in any calendar year and must acknowledge that he or she is subject to the jurisdiction of the county clerk with respect to the provisions of this chapter governing the conduct of ministers, other church or religious officials authorized to solemnize a marriage or notaries public to the same extent as if he or she had obtained a certificate of permission to perform marriages.] (Deleted by amendment.)~~

Sec. 6. ~~[NRS 122.080 is hereby amended to read as follows:~~

~~122.080 1. After receipt of the marriage license previously issued to persons wishing to be married as provided in NRS 122.040 and 122.050, it is lawful for any justice of the Supreme Court, any judge of the Court of Appeals, any judge of the district court, any justice of the peace in his or her township if it is not a commissioner township, any justice of the peace in a commissioner township if authorized pursuant to subsection 3, any municipal judge if authorized pursuant to subsection 4, any commissioner of civil marriages within his or her county and within a commissioner township therein, or any deputy commissioner of civil marriages within the county of his or her appointment and within a commissioner township therein, to join together [as husband and wife] in marriage all persons not prohibited by this chapter.~~

~~2. This section does not prohibit:~~

~~(a) A justice of the peace of one township, while acting in the place and stead of the justice of the peace of any other township, from performing marriage ceremonies within the other township, if such other township is not a commissioner township.~~

~~(b) A justice of the peace of one township performing marriages in another township of the same county where there is no duly qualified and acting justice of the peace, if such other township is not a commissioner township or if he or she is authorized to perform the marriage pursuant to subsection 3.~~

~~3. In any calendar year, a justice of the peace may perform not more than 20 marriage ceremonies in commissioner townships if he or she does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.~~

~~4. In any calendar year, a municipal judge may perform not more than 20 marriage ceremonies in this State if he or she does not accept any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage other than a nonmonetary gift that is of nominal value.~~

~~5. Any justice of the peace who performs a marriage ceremony in a commissioner township or any municipal judge who performs a marriage ceremony in this State and who, in violation of this section, accepts any fee, gratuity, gift, honorarium or anything of value for or in connection with solemnizing the marriage is guilty of a misdemeanor. (Deleted by amendment.)~~

Sec. 7. ~~[NRS 122.110 is hereby amended to read as follows:~~

~~122.110 1. In the solemnization of marriage, no particular form is required except that the parties shall declare, in the presence of the justice, judge, minister or other church or religious official authorized to solemnize a marriage, notary public to whom a certificate of permission to perform marriages has been issued, justice of the peace, commissioner of civil marriages or deputy commissioner of civil marriages, and the attending witness, that they take each other as [husband and wife.] spouses.~~

~~2. In every case, there shall be at least one witness present besides the person performing the ceremony. (Deleted by amendment.)~~

Sec. 8. ~~[NRS 122.120 is hereby amended to read as follows:~~

~~122.120 1. After a marriage is solemnized, the person solemnizing the marriage shall give to each couple being married a certificate of marriage.~~

~~2. The certificate of marriage must contain the date of birth of each applicant as contained in the form of marriage license pursuant to NRS 122.050. If [a male and female person] two persons who are the [husband and wife] spouses of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, the certificate of marriage must state that the [male and female person] persons were rejoined in marriage and~~

that the certificate is replacing a record of marriage which was lost or destroyed or is otherwise unobtainable. The certificate of marriage must be in substantially the following form:

~~State of Nevada
Marriage Certificate~~

~~State of Nevada _____ }
_____ } ss.
County of _____ }~~

~~— This is to certify that the undersigned (a minister or other church or religious official authorized to solemnize a marriage, notary public, judge, justice of the peace of County, commissioner of civil marriages or deputy commissioner of civil marriages, as the case may be), did on the day of the month of _____ of the year _____, at (address or church), _____ (city), Nevada, join or rejoin, as the case may be, in lawful wedlock _____ (name), of _____ (city), State of _____, date of birth _____, and _____ (name), of _____ (city), State of _____, date of birth _____, with their mutual consent, in the presence of _____ and _____ (witnesses). (If [a male and female person] *two persons* who are the [husband and wife] *spouses* of each other are being rejoined in marriage pursuant to subsection 2 of NRS 122.020, this certificate replaces the record of the marriage of the [male and female person] *persons* who are being rejoined in marriage.)~~

~~_____

_____ Signature of person performing
(Seal of County Clerk) _____ the marriage~~

~~_____
_____ Name under signature typewritten
_____ or printed in black ink~~

~~_____
_____ County Clerk~~

~~_____
_____ Official title of person performing
_____ the marriage~~

~~_____
_____ Couple's mailing address~~

~~3. All information contained in the certificate of marriage must be typewritten or legibly printed in black ink, except the signatures. The signature of the person performing the marriage must be an original signature. (Deleted by amendment.)~~

~~Sec. 9. [NRS 122.220 is hereby amended to read as follows:
122.220 1. It is unlawful for any Supreme Court justice, judge of the Court of Appeals, judge of a district court, justice of the peace, municipal judge, minister or other church or religious official authorized to solemnize a marriage, notary public, commissioner of civil marriages or deputy~~

~~commissioner of civil marriages to join together as [husband and wife] spouses persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him or her a license from the county clerk as provided by law.~~

~~2. Any Supreme Court justice, judge of the Court of Appeals, judge of a district court, justice of the peace, municipal judge, minister or other church or religious official authorized to solemnize a marriage, notary public, commissioner of civil marriages or deputy commissioner of civil marriages who violates the provisions of subsection 1 is guilty of a misdemeanor.]~~
(Deleted by amendment.)

Sec. 10. ~~[NRS 123.010 is hereby amended to read as follows:~~

~~123.010 1. The property rights of [husband and wife] a married couple are governed by this chapter, unless there is:~~

~~(a) A premarital agreement which is enforceable pursuant to chapter 123A of NRS; or~~

~~(b) A marriage contract or settlement,
containing stipulations contrary thereto.~~

~~2. Chapter 76, Statutes of Nevada 1865, is repealed, but no rights vested or proceedings taken before March 10, 1873, shall be affected by anything contained in this chapter of NRS.]~~ (Deleted by amendment.)

Sec. 11. ~~[NRS 123.020 is hereby amended to read as follows:~~

~~123.020 No estate is allowed [the husband] one spouse as tenant by curtesy upon the death of his [wife,] or her spouse, nor is any estate in dower allotted to the [wife] other spouse upon the death of his or her [husband.] spouse.]~~ (Deleted by amendment.)

Sec. 12. ~~[NRS 123.030 is hereby amended to read as follows:~~

~~123.030 A [husband and wife] married couple may hold real or personal property as joint tenants, tenants in common, or as community property.]~~
(Deleted by amendment.)

Sec. 13. ~~[NRS 123.060 is hereby amended to read as follows:~~

~~123.060 Except as mentioned in NRS 123.070, neither [husband nor wife] spouse has any interest in the property of the other.]~~ (Deleted by amendment.)

Sec. 14. ~~[NRS 123.070 is hereby amended to read as follows:~~

~~123.070 Either [husband or wife] spouse may enter into any contract, engagement or transaction with the other, or with any other person respecting property, which either might enter into if unmarried, subject in any contract, engagement or transaction between themselves, to the general rules which control the actions of persons occupying relations of confidence and trust toward each other.]~~ (Deleted by amendment.)

Sec. 15. ~~[NRS 123.080 is hereby amended to read as follows:~~

~~123.080 1. A [husband and wife] married couple cannot by any contract with each other alter their legal relations except as to property, and except that they may agree to an immediate separation and may make~~

~~provision for the support of either of them and of their children during such separation.~~

~~2. The mutual consent of the parties is a sufficient consideration for such an agreement as is mentioned in subsection 1.~~

~~3. In the event that a suit for divorce is pending or immediately contemplated by one of the spouses against the other, the validity of such agreement shall not be affected by a provision therein that the agreement is made for the purpose of removing the subject matter thereof from the field of litigation, and that in the event of a divorce being granted to either party, the agreement shall become effective and not otherwise.~~

~~4. If a contract executed by a [husband and wife,] *married couple*, or a copy thereof, be introduced in evidence as an exhibit in any divorce action, and the court shall by decree or judgment ratify or adopt or approve the contract by reference thereto, the decree or judgment shall have the same force and effect and legal consequences as though the contract were copied into the decree, or attached thereto.} (Deleted by amendment.)~~

Sec. 16. ~~{NRS 123.090 is hereby amended to read as follows:~~

~~123.090 If [the husband] *a spouse* neglects to make adequate provision for the support of his [wife,] *or her spouse*, any other person may in good faith supply [her] *the neglected spouse* with articles necessary for *his or her* support, and recover the reasonable value thereof from the [husband,] *neglecting spouse*. The separate property of the [husband] *neglecting spouse* is liable for the cost of such necessities if the community property of the spouses is not sufficient to satisfy such debt.} (Deleted by amendment.)~~

Sec. 17. ~~{NRS 123.110 is hereby amended to read as follows:~~

~~123.110 [The wife] *A spouse* must support [the husband] *his or her spouse* out of *his or her* separate property when [he] *the spouse* has no separate property and they have no community property and [he,] *the spouse*, from infirmity, is not able or competent to support himself [-] *or herself.*} (Deleted by amendment.)~~

Sec. 18. ~~{NRS 123.121 is hereby amended to read as follows:~~

~~123.121 When [a husband and wife] *spouses* sue jointly, any damages awarded shall be segregated as follows:~~

~~1. If the action is for personal injuries, damages assessed for:~~

~~(a) Personal injuries and pain and suffering, to the injured spouse as his or her separate property;~~

~~(b) Loss of comfort and society, to the spouse who suffers such loss.~~

~~(c) Loss of services and hospital and medical expenses, to the spouses as community property.~~

~~2. If the action is for injury to property, damages shall be awarded according to the character of the injured property. Damages to separate property shall be awarded to the spouse owning such property, and damages to community property shall be awarded to the spouses as community property.} (Deleted by amendment.)~~

Sec. 19. ~~{NRS 123.130 is hereby amended to read as follows:~~

~~123.130 [1.] All property of [the wife] *a spouse* owned by *him or her* before marriage, and that acquired by *him or her* afterwards by gift, bequest, devise, descent or by an award for personal injury damages, with the rents, issues and profits thereof, is *his or her* separate property.~~

~~[2. All property of the husband owned by him before marriage, and that acquired by him afterwards by gift, bequest, devise, descent or by an award for personal injury damages, with the rents, issues and profits thereof, is his separate property.]} (Deleted by amendment.)~~

Sec. 20. ~~[NRS 123.180 is hereby amended to read as follows:~~

~~123.180 1. Any property acquired by a child by gift, bequest, devise or descent, with the rents, issues and profits thereof, is the child's own property, and neither parent is entitled to any interest therein.~~

~~2. The earnings and accumulations of earnings of a minor child are the community property of his or her parents unless relinquished to the child. Such relinquishment may be shown by written instrument, proof of a specific oral gift, or proof of a course of conduct.~~

~~3. When a [husband and wife are] *married couple* is living separate and apart the earnings and accumulations of earnings of their minor children, unless relinquished, are the separate property of the spouse who has their custody or, if no custody award has been made, then the separate property of the spouse with whom such children are living.]} (Deleted by amendment.)~~

Sec. 21. ~~[NRS 123.190 is hereby amended to read as follows:~~

~~123.190 [1.] When [the husband] *a spouse* has given written authority to [the wife] *his or her spouse* to appropriate to *his or her* own use [her] *the spouse's* earnings, the same, with the issues and profits thereof, is deemed a gift from [him to her,] *one spouse to the other*, and is, with such issues and profits, [her] *the latter spouse's* separate property.~~

~~[2. When the wife has given written authority to the husband to appropriate to his own use his earnings, the same, with the issues and profits thereof, is deemed a gift from her to him, and is, with such issues and profits, his separate property.]} (Deleted by amendment.)~~

Sec. 22. ~~[NRS 123.220 is hereby amended to read as follows:~~

~~123.220 All property, other than that stated in NRS 123.130, acquired after marriage by either [husband or wife,] *spouse*, or both, is community property unless otherwise provided by:~~

~~1. An agreement in writing between the spouses.~~

~~2. A decree of separate maintenance issued by a court of competent jurisdiction.~~

~~3. NRS 123.190.~~

~~4. A decree issued or agreement in writing entered pursuant to NRS 123.259.]} (Deleted by amendment.)~~

Sec. 23. ~~[NRS 123.225 is hereby amended to read as follows:~~

~~123.225 1. The respective interests of [the husband and wife] *each spouse* in community property during continuance of the marriage relation~~

~~are present, existing and equal interests, subject to the provisions of NRS 123.230.~~

~~2. The provisions of this section apply to all community property, whether the community property was acquired before, on or after March 26, 1959.] (Deleted by amendment.)~~

~~Sec. 24. [NRS 123.259 is hereby amended to read as follows:~~

~~123.259 1. Except as otherwise provided in subsection 2, a court of competent jurisdiction may, upon a proper petition filed by a spouse or the guardian of a spouse, enter a decree dividing the income and resources of a [husband and wife] *married couple* pursuant to this section if one spouse is an institutionalized spouse and the other spouse is a community spouse.~~

~~2. The court shall not enter such a decree if the division is contrary to a premarital agreement between the spouses which is enforceable pursuant to chapter 123A of NRS.~~

~~3. Unless modified pursuant to subsection 4 or 5, the court may divide the income and resources:~~

~~(a) Equally between the spouses; or~~

~~(b) By protecting income for the community spouse through application of the maximum federal minimum monthly maintenance needs allowance set forth in 42 U.S.C. § 1396r 5(d)(3)(C) and by permitting a transfer of resources to the community spouse an amount which does not exceed the amount set forth in 42 U.S.C. § 1396r 5(f)(2)(A)(ii).~~

~~4. If either spouse establishes that the community spouse needs income greater than that otherwise provided under paragraph (b) of subsection 3, upon finding exceptional circumstances resulting in significant financial duress and setting forth in writing the reasons for that finding, the court may enter an order for support against the institutionalized spouse for the support of the community spouse in an amount adequate to provide such additional income as is necessary.~~

~~5. If either spouse establishes that a transfer of resources to the community spouse pursuant to paragraph (b) of subsection 3, in relation to the amount of income generated by such a transfer, is inadequate to raise the income of the community spouse to the amount allowed under paragraph (b) of subsection 3 or an order for support issued pursuant to subsection 4, the court may substitute an amount of resources adequate to provide income to fund the amount so allowed or to fund the order for support.~~

~~6. A copy of a petition for relief under subsection 4 or 5 and any court order issued pursuant to such a petition must be served on the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services when any application for medical assistance is made by or on behalf of an institutionalized spouse. The Administrator may intervene no later than 45 days after receipt by the Division of Welfare and Supportive Services of the Department of Health and Human Services of an application for medical assistance and a copy of the petition and any order entered pursuant to subsection 4 or 5, and may move to modify the order.~~

~~7. A person may enter into a written agreement with his or her spouse dividing their community income, assets and obligations into equal shares of separate income, assets and obligations of the spouses. Such an agreement is effective only if one spouse is an institutionalized spouse and the other spouse is a community spouse or a division of the income or resources would allow one spouse to qualify for services under NRS 427A.250 to 427A.280, inclusive.~~

~~8. An agreement entered into or decree entered pursuant to this section may not be binding on the Division of Welfare and Supportive Services of the Department of Health and Human Services in making determinations under the State Plan for Medicaid.~~

~~9. As used in this section, "community spouse" and "institutionalized spouse" have the meanings respectively ascribed to them in 42 U.S.C. § 1396r 5(h). (Deleted by amendment.)~~

Sec. 25. ~~[NRS 125.010 is hereby amended to read as follows:~~

~~125.010 Divorce from the bonds of matrimony may be obtained for any of the following causes:~~

~~1. Insanity existing for 2 years prior to the commencement of the action. Upon this cause of action the court, before granting a divorce, shall require corroborative evidence of the insanity of the defendant at that time, and a decree granted on this ground shall not relieve the successful party from contributing to the support and maintenance of the defendant, and the court may require the plaintiff in such action to give bond therefor in an amount to be fixed by the court.~~

~~2. When the [husband and wife] spouses have lived separate and apart for 1 year without cohabitation the court may, in its discretion, grant an absolute decree of divorce at the suit of either party.~~

~~3. Incompatibility.] (Deleted by amendment.)~~

Sec. 26. ~~[NRS 125.130 is hereby amended to read as follows:~~

~~125.130 1. A judgment or decree of divorce granted pursuant to the provisions of this chapter is a final decree.~~

~~2. Whenever a decree of divorce from the bonds of matrimony is granted in this State by a court of competent authority, the decree fully and completely dissolves the marriage contract as to both parties.~~

~~3. A court that grants a decree of divorce pursuant to the provisions of this section shall ensure that the social security numbers of both parties are placed in the records relating to the matter and, except as otherwise required to carry out a specific statute, maintained in a confidential manner.~~

~~4. In all suits for divorce, if a divorce is granted, the court may, for just and reasonable cause and by an appropriate order embodied in its decree, change the name of [the wife] a party to any former name which he or she has legally borne.] (Deleted by amendment.)~~

Sec. 27. 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, ~~feither spouse,~~ 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. *A party may file a postjudgment motion in any action for divorce, annulment or separate maintenance to obtain adjudication of any community property or liability omitted from the decree or judgment. There is no limitation on the time in which a motion pursuant to this subsection may be filed. The court has continuing jurisdiction to hear such a motion and shall equally divide the omitted community property or liability between the parties unless the court finds that:*

(a) *The community property or liability was included in a prior equal disposition of the community property of the parties or in an unequal disposition of the community property of the parties which was made pursuant to written findings of a compelling reason for making that unequal disposition; or*

(b) *The court determines a compelling reason in the interests of justice to make an unequal disposition of the community property or liability and sets forth in writing the reasons for making the unequal disposition.*

4. 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.}~~ 5. In granting a divorce, the court may also set apart such portion of the husband's separate property ~~for either spouse~~ for the wife's ~~other spouse'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.}~~ 6. 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.}~~ 7. 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.}~~ 8. 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.}~~ 9. 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.}~~ 10. 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.}~~ 11. If the court determines that alimony should be awarded pursuant to the provisions of subsection ~~{9.}~~ 10:

(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.}~~ 12. 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.

Sec. 28. ~~[NRS 125.181 is hereby amended to read as follows:~~

~~125.181 A marriage may be dissolved by the summary procedure for divorce set forth in NRS 125.181 to 125.184, inclusive, when all of the following conditions exist at the time the proceeding is commenced:~~

- ~~1. Either party has met the jurisdictional requirements of NRS 125.020.~~
- ~~2. The [husband and wife] spouses have lived separate and apart for 1 year without cohabitation or they are incompatible.~~
- ~~3. There are no minor children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage and [the] a wife, to her knowledge, is not pregnant, or the parties have executed an agreement as to the custody of any children and setting forth the amount and manner of their support.~~
- ~~4. There is no community or joint property or the parties have executed an agreement setting forth the division of community property and the assumption of liabilities of the community, if any, and have executed any deeds, certificates of title, bills of sale or other evidence of transfer necessary to effectuate the agreement.~~
- ~~5. The parties waive any rights to spousal support or the parties have executed an agreement setting forth the amount and manner of spousal support.~~
- ~~6. The parties waive their respective rights to written notice of entry of the decree of divorce, to appeal, to request findings of fact and conclusions of law and to move for a new trial.~~
- ~~7. The parties desire that the court enter a decree of divorce.] (Deleted by amendment.)~~

Sec. 29. ~~[NRS 125.182 is hereby amended to read as follows:~~

~~125.182 1. A summary proceeding for divorce may be commenced by filing in any district court a joint petition, signed under oath by both [the husband and the wife,] spouses, stating that as of the date of filing, every condition set forth in NRS 125.181 has been met and specifying the:~~

- ~~(a) Facts which support the jurisdictional requirements of NRS 125.020; and~~
- ~~(b) Grounds for the divorce.~~
- ~~2. The petition must also state:~~
 - ~~(a) The date and the place of the marriage.~~
 - ~~(b) The mailing address of both [the husband and the wife.] spouses.~~

~~— (e) Whether there are minor children of the relationship of the parties born before or during the marriage or adopted by the parties during the marriage, or [the] a wife, to her knowledge, is pregnant;~~

~~— (d) Whether [the wife] either spouse elects to have his or her maiden or former name restored and, if so, the name to be restored.~~

~~— 3. An affidavit of corroboration of residency which complies with the provisions of subsections 1, 2 and 4 of NRS 125.123 must accompany the petition. If there is a marital settlement agreement which the parties wish the court to approve or make a part of the decree, it must be identified and attached to the petition as an exhibit. (Deleted by amendment.)~~

Sec. 30. ~~[NRS 125.210 is hereby amended to read as follows:~~

~~— 125.210 1. Except as otherwise provided in subsection 2, in any action brought pursuant to NRS 125.190, the court may:~~

~~— (a) Assign and decree to either spouse the possession of any real or personal property of the other spouse;~~

~~— (b) Order or decree the payment of a fixed sum of money for the support of the other spouse and their children;~~

~~— (c) Provide that the payment of that money be secured upon real estate or other security, or make any other suitable provision; and~~

~~— (d) Determine the time and manner in which the payments must be made.~~

~~— 2. The court may not:~~

~~— (a) Assign and decree to either spouse the possession of any real or personal property of the other spouse; or~~

~~— (b) Order or decree the payment of a fixed sum of money for the support of the other spouse;~~

~~— if it is contrary to a premarital agreement between the spouses which is enforceable pursuant to chapter 123A of NRS;~~

~~— 3. Except as otherwise provided in chapter 130 of NRS, the court may change, modify or revoke its orders and decrees from time to time.~~

~~— 4. No order or decree is effective beyond the joint lives of the [husband and wife.] spouses. (Deleted by amendment.)~~

Sec. 31. ~~[NRS 125.320 is hereby amended to read as follows:~~

~~— 125.320 1. When the consent of the father, mother, guardian or district court, as required by NRS 122.020 or 122.025, has not been obtained, the marriage is void from the time its nullity is declared by a court of competent jurisdiction;~~

~~— 2. If the consent required by NRS 122.020 or 122.025 is not first obtained, the marriage contracted without the consent of the father, mother, guardian or district court may be annulled upon application by or on behalf of the person who fails to obtain such consent, unless such person after reaching the age of 18 years freely cohabits for any time with the other party to the marriage as [husband and wife.] a married couple. Any such annulment proceedings must be brought within 1 year after such person reaches the age of 18 years. (Deleted by amendment.)~~

Sec. 32. ~~[NRS 125.330 is hereby amended to read as follows:~~

~~125.330 1. When either of the parties to a marriage for want of understanding shall be incapable of assenting thereto, the marriage shall be void from the time its nullity shall be declared by a court of competent authority.~~

~~2. The marriage of any insane person shall not be adjudged void, after his or her restoration to reason, if it shall appear that the parties freely cohabited together as [husband and wife] *a married couple* after such insane person was restored to a sound mind.] (Deleted by amendment.)~~

Sec. 33. ~~[NRS 125.340 is hereby amended to read as follows:~~

~~125.340 1. If the consent of either party was obtained by fraud and fraud has been proved, the marriage shall be void from the time its nullity shall be declared by a court of competent authority.~~

~~2. No marriage may be annulled for fraud if the parties to the marriage voluntarily cohabit as [husband and wife] *a married couple* having received knowledge of such fraud.] (Deleted by amendment.)~~

Sec. 34. ~~[NRS 125A.515 is hereby amended to read as follows:~~

~~125A.515 1. Unless the court issues a temporary emergency order pursuant to NRS 125A.335, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:~~

~~(a) The child custody determination has not been registered and confirmed pursuant to NRS 125A.465 and that:~~

~~(1) The issuing court did not have jurisdiction pursuant to NRS 125A.305 to 125A.395, inclusive;~~

~~(2) The child custody determination for which enforcement is sought has been vacated, stayed or modified by a court of a state having jurisdiction to do so pursuant to NRS 125A.305 to 125A.395, inclusive; or~~

~~(3) The respondent was entitled to notice, but notice was not given in accordance with the standards of NRS 125A.255, in the proceedings before the court that issued the order for which enforcement is sought; or~~

~~(b) The child custody determination for which enforcement is sought was registered and confirmed pursuant to NRS 125A.465, but has been vacated, stayed or modified by a court of a state having jurisdiction to do so pursuant to NRS 125A.305 to 125A.395, inclusive.~~

~~2. The court shall award the fees, costs and expenses authorized pursuant to NRS 125A.535 and may grant additional relief, including a request for the assistance of law enforcement officers, and set a further hearing to determine whether additional relief is appropriate.~~

~~3. If a party called to testify refuses to answer on the ground that the testimony may be self incriminating, the court may draw an adverse inference from the refusal.~~

~~4. A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of [husband and wife] *a married couple* or parent and child may not be invoked in a proceeding~~

~~conducted pursuant to NRS 125A.405 to 125A.585, inclusive.} (Deleted by amendment.)~~

~~Sec. 35. [NRS 130.316 is hereby amended to read as follows:~~

~~130.316 1. The physical presence of a nonresident party who is a natural person in a tribunal of this State is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage.~~

~~2. An affidavit, a document substantially complying with federally mandated forms or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule in NRS 51.065 if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing in another state.~~

~~3. A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted therein and is admissible to show whether payments were made.~~

~~4. Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 20 days before trial are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.~~

~~5. Documentary evidence transmitted from another state to a tribunal of this State by telephone, telecopier or other means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.~~

~~6. In a proceeding under this chapter, a tribunal of this State shall permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means or other electronic means at a designated tribunal or other location in that state. A tribunal of this State shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.~~

~~7. In a civil proceeding under this chapter, if a party called to testify refuses to answer a question on the ground that the testimony may be self incriminating, the trier of fact may draw an adverse inference from the refusal.~~

~~8. A privilege against the disclosure of communications between [husband and wife] spouses does not apply in a proceeding under this chapter.~~

~~9. The defense of immunity based on the relationship of [husband and wife] a married couple or parent and child does not apply in a proceeding under this chapter.~~

~~10. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.} (Deleted by amendment.)~~

~~Sec. 36. [NRS 12.020 is hereby amended to read as follows:~~

~~12.020 A [husband and wife] *married couple* may sue jointly on all causes of action belonging to either or both of them, except:~~

~~1. When the action is for personal injuries, the spouse having sustained personal injuries is a necessary party; and~~

~~2. When the action is for compensation for services rendered, the spouse having rendered the services is a necessary party.] (Deleted by amendment.)~~

Sec. 37. ~~[NRS 12.030 is hereby amended to read as follows:~~

~~12.030 If [husband and wife are] *a married couple* is sued together, either or both may defend, and if either neglects to defend, the other may defend for both.] (Deleted by amendment.)~~

Sec. 38. ~~[NRS 12.040 is hereby amended to read as follows:~~

~~12.040 When a [husband] *spouse* has deserted his *or her* family, the [wife] *other spouse* may prosecute or defend in his *or her* name any action which he *or she* might have prosecuted or defended, and shall have the same powers and rights therein as he *or she* might have. [, and, under like circumstances, the husband shall have the same right.]] (Deleted by amendment.)~~

Sec. 39. ~~[NRS 49.295 is hereby amended to read as follows:~~

~~49.295 1. Except as otherwise provided in subsections 2 and 3 and NRS 49.305:~~

~~—(a) A [husband] *married person* cannot be examined as a witness for or against his *or her* [wife] *spouse* without his *or her* consent. [, nor a wife for or against her husband without her consent.]~~

~~—(b) [Neither a husband nor a wife] *No spouse* can be examined, during the marriage or afterwards, without the consent of the other [,] *spouse*, as to any communication made by one to the other during marriage.~~

~~2. The provisions of subsection 1 do not apply to a~~

~~—(a) Civil proceeding brought by or on behalf of one spouse against the other spouse;~~

~~—(b) Proceeding to commit or otherwise place a spouse, the property of the spouse or both the spouse and the property of the spouse under the control of another because of the alleged mental or physical condition of the spouse;~~

~~—(c) Proceeding brought by or on behalf of a spouse to establish his or her competence;~~

~~—(d) Proceeding in the juvenile court or family court pursuant to title 5 of NRS or NRS 432B.410 to 432B.590, inclusive; or~~

~~—(e) Criminal proceeding in which one spouse is charged with:~~

~~—(1) A crime against the person or the property of the other spouse or of a child of either, or of a child in the custody or control of either, whether the crime was committed before or during marriage.~~

~~—(2) Bigamy or incest.~~

~~—(3) A crime related to abandonment of a child or nonsupport of the other spouse or child.~~

~~3. The provisions of subsection 1 do not apply in any criminal proceeding to events which took place before the [husband and wife] spouses were married.] (Deleted by amendment.)~~

Sec. 40. ~~[NRS 49.305 is hereby amended to read as follows:~~

~~49.305 When a [husband or wife] married person is insane, and has been so declared by a court of competent jurisdiction, the other spouse shall be a competent witness to testify as to any fact which transpired before or during such insanity, but the privilege of so testifying shall cease when the party declared insane has been found by a court of competent jurisdiction to be of sound mind, and the [husband and wife] married couple shall then have the testimonial limitations and privileges provided in NRS 49.295.] (Deleted by amendment.)~~

Sec. 41. ~~[NRS 111.063 is hereby amended to read as follows:~~

~~111.063 Tenancy in common in real or personal property may be created by a single conveyance from [a husband and wife] spouses holding title as joint tenants to themselves, or to themselves and others, or to one of them and others, when such conveyance expressly declares that the grantees thereunder are tenants in common.] (Deleted by amendment.)~~

Sec. 42. ~~[NRS 111.064 is hereby amended to read as follows:~~

~~111.064 1. Estates as tenants in common or estates in community property may be created by conveyance from [husband and wife] spouses to themselves or to themselves and others or from a sole owner to himself or herself and others in the same manner as a joint tenancy may be created.~~

~~2. A right of survivorship does not arise when an estate in community property is created in a [husband and wife] married couple, as such, unless the instrument creating the estate expressly declares that the [husband and wife] married couple take the property as community property with a right of survivorship. This right of survivorship is extinguished whenever either spouse, during the marriage, transfers the spouse's interest in the community property.] (Deleted by amendment.)~~

Sec. 43. ~~[NRS 111.065 is hereby amended to read as follows:~~

~~111.065 1. Joint tenancy in real property may be created by a single will or transfer when expressly declared in the will or transfer to be a joint tenancy, or by transfer from a sole owner to himself or herself and others, or from tenants in common to themselves, or to themselves and others, or to one of them and others, or from a [husband and wife] married couple when holding title as community property or otherwise to themselves, or to themselves and others, or to one of them and others, when expressly declared in the transfer to be a joint tenancy, or when granted or devised to executors or trustees as joint tenants.~~

~~2. A joint tenancy in personal property may be created by a written transfer, agreement or instrument.] (Deleted by amendment.)~~

Sec. 44. ~~[NRS 111.673 is hereby amended to read as follows:~~

~~111.673 The owner of an interest in property who creates a deed upon death may designate in the deed:~~

~~1. Multiple beneficiaries who will take title to the property upon his or her death as joint tenants with right of survivorship, tenants in common, [husband and wife] *a married couple* as community property, community property with right of survivorship or any other tenancy that is recognized in this State.~~

~~2. The beneficiary or beneficiaries who will take title to the property upon his or her death as the sole and separate property of the beneficiary or beneficiaries without the necessity of the filing of a quitclaim deed or disclaimer by the spouse of any beneficiary.} (Deleted by amendment.)~~

Sec. 45. [NRS 111.781 is hereby amended to read as follows:

~~111.781 1. Except as otherwise provided by the express terms of a governing instrument, a court order or a contract relating to the division of the marital estate made between the divorced persons before or after the marriage, divorce or annulment, the divorce or annulment of a marriage:~~

~~(a) Revokes any revocable:~~

~~(1) Disposition or appointment of property made by a divorced person to his or her former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced person's former spouse;~~

~~(2) Provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced person's former spouse or on a relative of the divorced person's former spouse; and~~

~~(3) Nomination in a governing instrument that nominates a divorced person's former spouse or a relative of the divorced person's former spouse to serve in any fiduciary or representative capacity, including a personal representative capacity, including a personal representative, executor, trustee, conservator, agent or guardian; and~~

~~(b) Severs the interest of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship or as community property with a right of survivorship and transforms the interests of the former spouses into equal tenancies in common.~~

~~2. A severance under paragraph (b) of subsection 1 does not affect any third party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed or recorded in records appropriate to the kind and location of the property which records are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.~~

~~3. The provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.~~

~~4. Any provisions revoked solely by this section are revived by the divorced person's remarriage to the former spouse or by a nullification of the divorce or annulment.~~

~~5. Unless a court in an action commenced pursuant to chapter 125 of NRS specifically orders otherwise, a restraining order entered pursuant to NRS 125.050 does not preclude a party to such an action from making or changing beneficiary designations that specify who will receive the party's assets upon the party's death.~~

~~6. A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by the provisions of this section or for having taken any other action in good faith reliance on the validity of the governing instrument before the payor or other third party received written or actual notice of any event affecting a beneficiary designation. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written or actual notice of a claimed forfeiture or revocation under this section.~~

~~7. Written notice of the divorce, annulment or remarriage or written notice of a complaint or petition for divorce or annulment must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.~~

~~8. A person who purchases property from a former spouse, relative of a former spouse or any other person for value and without notice, or who receives from a former spouse, relative of a former spouse or any other person a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. A former spouse, relative of a former spouse or other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return the payment, item of property or benefit or is personally liable for the amount of the~~

~~payment or the value of the item of property or benefit to the person who is entitled to it under this section.~~

~~9. If this section or any part of this section is preempted by federal law with respect to a payment, an item of property or any other benefit covered by this section, a former spouse, relative of the former spouse or any other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return that payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who would have been entitled to it were this section or part of this section not preempted.~~

~~10. As used in this section:~~

~~(a) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.~~

~~(b) "Divorce or annulment" means any divorce or annulment or any dissolution or declaration of invalidity of a marriage. A decree of separation that does not terminate the status of [husband and wife] *a married couple* is not a divorce for purposes of this section.~~

~~(c) "Divorced person" includes a person whose marriage has been annulled.~~

~~(d) "Governing instrument" means a governing instrument executed by a divorced person before the divorce or annulment of the person's marriage to the person's former spouse.~~

~~(e) "Relative of the divorced person's former spouse" means a person who is related to the divorced person's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the divorced person by blood, adoption or affinity.~~

~~(f) "Revocable," with respect to a disposition, appointment, provision or nomination, means one under which the divorced person, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the person's former spouse or former spouse's relative, whether or not the divorced person was then empowered to designate himself or herself in place of his or her former spouse or in place of his or her former spouse's relative and whether or not the divorced person then had the capacity to exercise the power. (Deleted by amendment.)~~

Sec. 46. [NRS 115.005 is hereby amended to read as follows:

~~115.005 As used in this chapter, unless the context otherwise requires:~~

~~1. "Equity" means the amount that is determined by subtracting from the fair market value of the property the value of any liens excepted from the homestead exemption pursuant to subsection 3 of NRS 115.010 or NRS 115.090.~~

~~2. "Homestead" means the property consisting of:~~

~~— (a) A quantity of land, together with the dwelling house thereon and its appurtenances;~~

~~— (b) A mobile home whether or not the underlying land is owned by the claimant; or~~

~~— (c) A unit, whether real or personal property, existing pursuant to chapter 116 or 117 of NRS, with any appurtenant limited common elements and its interest in the common elements of the common interest community, ~~to be selected by [the husband and wife,] both spouses, or either of them, or a single person claiming the homestead.~~ (Deleted by amendment.)~~

Sec. 47. ~~[NRS 115.010 is hereby amended to read as follows:~~

~~— 115.010 1. The homestead is not subject to forced sale on execution or any final process from any court, except as otherwise provided by subsections 2, 3 and 5, and NRS 115.090 and except as otherwise required by federal law.~~

~~— 2. The exemption provided in subsection 1 extends only to that amount of equity in the property held by the claimant which does not exceed \$550,000 in value, unless allodial title has been established and not relinquished, in which case the exemption provided in subsection 1 extends to all equity in the dwelling, its appurtenances and the land on which it is located.~~

~~— 3. Except as otherwise provided in subsection 4, the exemption provided in subsection 1 does not extend to process to enforce the payment of obligations contracted for the purchase of the property, or for improvements made thereon, including any mechanic's lien lawfully obtained, or for legal taxes, or for:~~

~~— (a) Any mortgage or deed of trust thereon executed and given, including, without limitation, any second or subsequent mortgage, mortgage obtained through refinancing, line of credit taken against the property and a home equity loan; or~~

~~— (b) Any lien to which prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070, ~~by both [husband and wife,] spouses, when that relation exists.~~~~

~~— 4. If allodial title has been established and not relinquished, the exemption provided in subsection 1 extends to process to enforce the payment of obligations contracted for the purchase of the property, and for improvements made thereon, including any mechanic's lien lawfully obtained, and for legal taxes levied by a state or local government, and for:~~

~~— (a) Any mortgage or deed of trust thereon; and~~

~~— (b) Any lien even if prior consent has been given through the acceptance of property subject to any recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude, specifically including any lien in favor of an association pursuant to NRS 116.3116 or 117.070;~~

~~— unless a waiver for the specific obligation to which the judgment relates has been executed by all allodial titleholders of the property.~~

~~— 5. Establishment of allodial title does not exempt the property from forfeiture pursuant to NRS 179.1156 to 179.121, inclusive, 179.1211 to 179.1235, inclusive, or 207.350 to 207.520, inclusive.~~

~~— 6. Any declaration of homestead which has been filed before July 1, 2007, shall be deemed to have been amended on that date by extending the homestead exemption commensurate with any increase in the amount of equity held by the claimant in the property selected and claimed for the exemption up to the amount permitted by law on that date, but the increase does not impair the right of any creditor to execute upon the property when that right existed before July 1, 2007. (Deleted by amendment.)~~

Sec. 48. [NRS 115.020 is hereby amended to read as follows:

~~— 115.020 1. The selection must be made by either [the husband or wife,] spouse or both of them, or the single person, declaring an intention in writing to claim the property as a homestead. The selection may be made on the form prescribed by the Real Estate Division of the Department of Business and Industry pursuant to NRS 115.025.~~

~~— 2. The declaration must state:~~

~~— (a) When made by a married person or persons, that they or either of them are married, or if not married, that he or she is a householder.~~

~~— (b) When made by a married person or persons, that they or either of them, as the case may be, are, at the time of making the declaration, residing with their family, or with the person or persons under their care and maintenance, on the premises, particularly describing the premises.~~

~~— (c) When made by any claimant under this section, that it is their or his or her intention to use and claim the property as a homestead.~~

~~— 3. The declaration must be signed by the person or persons making it and acknowledged and recorded as conveyances affecting real property are required to be acknowledged and recorded. If the property declared upon as a homestead is the separate property of either spouse, both must join in the execution and acknowledgment of the declaration.~~

~~— 4. If a person solicits another person to allow the soliciting person to file a declaration of homestead on behalf of the other person and charges or accepts a fee or other valuable consideration for recording the declaration of homestead for the other person, the soliciting person shall, before the declaration is recorded or before the fee or other valuable consideration is charged to or accepted from the other person, provide that person with a notice written in bold type which states that:~~

~~— (a) Except for the fee which may be charged by the county recorder for recording a declaration of homestead, a declaration of homestead may be recorded in the county in which the property is located without the payment of a fee; and~~

~~— (b) The person may record the declaration of homestead on his or her own behalf.~~

~~4. The notice must clearly indicate the amount of the fee which may be charged by the county recorder for recording a declaration of homestead.~~

~~5. The rights acquired by declaring a homestead are not extinguished by the conveyance of the underlying property in trust for the benefit of the person or persons who declared it. A trustee may by similar declaration claim property, held by the trustee, as a homestead for the settlor or for one or more beneficiaries of the trust, or both, if the person or persons for whom the claim is made reside on or in the property.~~

~~6. A person who violates the provisions of subsection 4 is guilty of a misdemeanor. (Deleted by amendment.)~~

Sec. 49. [NRS 115.040 is hereby amended to read as follows:

~~115.040 1. A mortgage or alienation of any kind, made for the purpose of securing a loan or indebtedness upon the homestead property, is not valid for any purpose, unless the signature of [the husband and wife,] *both spouses*, when that relationship exists, is obtained to the mortgage or alienation and their signatures are properly acknowledged.~~

~~2. The homestead property shall not be deemed to be abandoned without a declaration thereof in writing, signed and acknowledged by both [husband and wife,] *spouses*, or the single person claiming the homestead, and recorded in the same office and in the same manner as the declaration of claim to the homestead is required to be recorded.~~

~~3. If either spouse is not a resident of this State, the signature of the spouse and the acknowledgment thereof is not necessary to the validity of any mortgage or alienation of the homestead before it becomes the homestead of the debtor. (Deleted by amendment.)~~

Sec. 50. [NRS 115.050 is hereby amended to read as follows:

~~115.050 1. Whenever execution has been issued against the property of a party claiming the property as a homestead, and the creditor in the judgment makes an oath before the judge of the district court of the county in which the property is situated that the amount of equity held by the claimant in the property exceeds, to the best of the creditor's information and belief, the sum of \$550,000, the judge shall, upon notice to the debtor, appoint three disinterested and competent persons as appraisers to estimate and report as to the amount of equity held by the claimant in the property and, if the amount of equity exceeds the sum of \$550,000, determine whether the property can be divided so as to leave the property subject to the homestead exemption without material injury.~~

~~2. If it appears, upon the report, to the satisfaction of the judge that the property can be thus divided, the judge shall order the excess to be sold under execution. If it appears that the property cannot be thus divided, and the amount of equity held by the claimant in the property exceeds the exemption allowed by this chapter, the judge shall order the entire property to be sold, and out of the proceeds the sum of \$550,000 to be paid to the defendant in execution, and the excess to be applied to the satisfaction on the execution. No bid under \$550,000 may be received by the officer making the sale.~~

~~3. When the execution is against a husband or wife, the judge may direct the \$550,000 to be deposited in court, to be paid out only upon the joint receipt of [the husband and wife] *both spouses*, and the deposit possesses all the protection against legal process and voluntary disposition by either spouse as did the original homestead.] (Deleted by amendment.)~~

~~Sec. 51. [NRS 115.060 is hereby amended to read as follows:~~

~~115.060 Except as otherwise provided in a premarital agreement between [the husband and wife] *two spouses* which is enforceable pursuant to chapter 123A of NRS:~~

~~1. If the property declared upon as a homestead is community property, the [husband and wife] *married couple* shall be deemed to hold the homestead as community property with a right of survivorship. Upon the death of either spouse:~~

~~(a) The exemption of the homestead from execution continues, without further filing, as to any debt or liability existing against the spouses, or either of them, until the death of the survivor and thereafter as to any debt or liability existing against the survivor at the time of the survivor's death.~~

~~(b) The property vests absolutely in the survivor.~~

~~2. If the property declared upon as a homestead is the separate property of either spouse, the [husband and wife] *married couple* shall be deemed to hold the right to exemption of the homestead from execution jointly while both spouses are living. If the property retains its character as separate property until the death of one or the other of the spouses:~~

~~(a) If it is the separate property of the survivor, the exemption of the homestead continues.~~

~~(b) If it was the separate property of the decedent, the exemption of the homestead from execution continues as to any debt or liability existing against the spouses, or either of them, at the time of death of the decedent but ceases as to any subsequent debt or liability of the survivor.~~

~~(c) The property belongs to the person, or his or her heirs, to whom it belonged when filed upon as a homestead.~~

~~3. If the property declared upon as a homestead is the property of a single person, upon the death of the single person:~~

~~(a) The exemption of the homestead from execution continues, without further filing, as to any debt or liability existing against the person at the time of his or her death and as to any subsequent debt or liability against a person who was living in his or her house at the time of his or her death, if that person continues to reside on the homestead property and is related to him or her by consanguinity or affinity, even if the person through whom the relation by affinity was created predeceased the declarant.~~

~~(b) The right of enjoyment of the property belongs to each person described in paragraph (a) until that person no longer qualifies under that paragraph.~~

~~4. If two or more persons who are not related by consanguinity or affinity have claimed as a homestead their respective undivided interests in a~~

~~single parcel of land or a mobile home, upon the death of one the exemption of the entire property from execution continues as to any debt or liability of the decedent and the other declarants until the death of the last declarant to die, but only for the benefit of a declarant who continues to reside on or in the property.}] (Deleted by amendment.)~~

~~Sec. 52. [NRS 159.057 is hereby amended to read as follows:~~

~~159.057 1. Where the appointment of a guardian is sought for two or more proposed wards who are children of a common parent, parent and child or [husband and wife,] *married couple*, it is not necessary that separate petitions, bonds and other papers be filed with respect to each proposed ward or wards.~~

~~2. If a guardian is appointed for such wards, the guardian:~~

~~(a) Shall keep separate accounts of the estate of each ward;~~

~~(b) May make investments for each ward;~~

~~(c) May compromise and settle claims against one or more wards; and~~

~~(d) May sell, lease, mortgage or otherwise manage the property of one or more wards.~~

~~3. The guardianship may be terminated with respect to less than all the wards in the same manner as provided by law with respect to a guardianship of a single ward.}] (Deleted by amendment.)~~

~~Sec. 53. [NRS 166A.220 is hereby amended to read as follows:~~

~~166A.220 1. Beneficial interests in a custodial trust created for multiple beneficiaries are deemed to be separate custodial trusts of equal undivided interests for each beneficiary. Except in a transfer or declaration for use and benefit of [husband and wife,] *a married couple*, for whom survivorship is presumed, a right of survivorship does not exist unless the instrument creating the custodial trust specifically provides for survivorship or survivorship is required as to community or marital property.~~

~~2. Custodial trust property held under this chapter by the same custodial trustee for the use and benefit of the same beneficiary may be administered as a single custodial trust.~~

~~3. A custodial trustee of custodial trust property held for more than one beneficiary shall separately account to each beneficiary pursuant to NRS 166A.230 and 166A.310 for the administration of the custodial trust.}] (Deleted by amendment.)~~

~~Sec. 54. [NRS 201.070 is hereby amended to read as follows:~~

~~201.070 1. No other or greater evidence is required to prove the marriage of the [husband and wife,] *spouses*, or that the defendant is the father or mother of the child or children, than is required to prove such facts in a civil action.~~

~~2. In no prosecution under NRS 201.015 to 201.080, inclusive, does any existing statute or rule of law prohibiting the disclosure of confidential communications between [husband and wife] *spouses* apply, and both [husband and wife] *spouses* are competent witnesses to testify against each other to any and all relevant matters, including the fact of the marriage and~~

~~the parentage of any child or children, but neither may be compelled to give evidence incriminating himself or herself.~~

~~3. Proof of the failure of the defendant to provide for the support of the spouse, child or children, is prima facie evidence that such failure was knowing.] (Deleted by amendment.)~~

Sec. 55. ~~[NRS 201.160 is hereby amended to read as follows:~~

~~201.160 1. Bigamy consists in the having of two [wives or two husbands] spouses at one time, knowing that the former [husband or wife] spouse is still alive.~~

~~2. If a married person marries any other person while the former [husband or wife] spouse is alive, the person so offending is guilty of a category D felony and shall be punished as provided in NRS 193.130.~~

~~3. It is not necessary to prove either of the marriages by the register and certificate thereof, or other record evidence, but those marriages may be proved by such evidence as is admissible to prove a marriage in other cases, and when the second marriage has taken place without this State, cohabitation in this State after the second marriage constitutes the commission of the crime of bigamy.~~

~~4. This section does not extend:~~

~~(a) To a person whose [husband or wife] spouse has been continually absent from that person for the space of 5 years before the second marriage, if he or she did not know the husband or wife to be living within that time.~~

~~(b) To a person who is, at the time of the second marriage, divorced by lawful authority from the bonds of the former marriage, or to a person where the former marriage has been by lawful authority declared void.] (Deleted by amendment.)~~

Sec. 56. Chapter 246 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[The]~~ *In a county whose population is 700,000 or more, the board of county commissioners may impose by ordinance an additional fee of not more than \$14 for the issuance of a marriage license.*

2. *An ordinance adopted pursuant to subsection 1 must include a provision creating a special revenue fund designated as the fund for the promotion of marriage tourism. Any money collected from a fee imposed pursuant to subsection 1 must be paid by the county clerk to the county treasurer, and the county treasurer shall deposit the money received in the fund.*

3. *Any interest earned on money in the fund, after deducting any applicable charges, must be credited to the fund.*

4. *Any money remaining in the fund at the end of a fiscal year must not revert to the county general fund, and the balance in the fund must be carried forward to the next fiscal year.*

5. *The money in the fund:*

(a) *Must be used by the county clerk only to promote wedding tourism in the county.*

(b) *Must not be used to replace or supplant any money available to fund the regular operations of the office of the county clerk.*

6. *If a board of county commissioners adopts an ordinance pursuant to subsection 1, on or before July 1 of each year, the county clerk shall submit to the board of county commissioners a report of the projected expenditures of the money in the fund for the following fiscal year.*

Sec. 57. ~~[NRS 268.594 is hereby amended to read as follows:~~

~~268.594 1. Whenever it is necessary for the purposes of NRS 268.570 to 268.608, inclusive, to determine the number or identity of the record owners of real property in a territory proposed to be annexed, a list of such owners, certified by the county assessor on any date between the institution of the proceedings, as provided in NRS 268.584, and the public hearing, as provided in NRS 268.590, both dates inclusive, shall be prima facie evidence that only those persons named thereon are such owners.~~

~~2. A petition or protest is sufficient for the purposes of NRS 268.570 to 268.608, inclusive, as to any lot or parcel of real property which is owned:~~

~~(a) As community property, if it is signed by [the husband.] one spouse.~~

~~(b) By two persons, either natural or artificial, other than as community property, if signed by both such owners.~~

~~(c) By more than two persons, either natural or artificial, if signed by a majority of such owners.~~

~~(d) Either wholly or in part, by an artificial person, if it is signed by an authorized agent and accompanied by a copy of such authorization.] (Deleted by amendment.)~~

Sec. 58. ~~[NRS 325.050 is hereby amended to read as follows:~~

~~325.050 1. Within 6 months after the first publication of the notice provided for in NRS 325.040, each person, company, corporation or association claiming to be an occupant or occupants, or to have, possess or be entitled to the right of occupancy or possession of such lands, or any block, lot, share or parcel thereof, shall, in person or by the duly authorized attorney of the person, company, corporation or association, sign a written statement containing a correct description of the particular parcel or parts in which the person, company, corporation or association claims to be entitled to receive, and deliver the same to, or into the office of, the corporate authorities or the judge of the district court.~~

~~2. All applications for conveyances under this chapter for the benefit of minors and insane persons shall be made by the guardian or trustee of such minor or insane person. All applications for such conveyances for the benefit of married [women] persons may be made by their [husbands.] spouses, if in this state, but in case of the absence of the [husband] spouse from this state or his or her refusal to make such application, then a married [woman] person may apply in his or her own name.~~

~~3. Except as provided in subsection 4 and in NRS 325.130, all persons, companies, corporations or associations or their heirs, successors or assigns failing to sign and deliver such statement within the time specified in~~

~~subsection 1 shall be forever debarred the right of claiming or recovering such lands or any interest or entail therein, or in any part, parcel or share thereof, in any court of law or equity.~~

~~4. The bar to the right of claiming or recovering such lands or any interest or entail therein as provided in subsection 3 shall not apply to minors or insane persons.] (Deleted by amendment.)~~

Sec. 59. ~~[NRS 425.3832 is hereby amended to read as follows:~~

~~425.3832 1. Except as otherwise provided in this chapter, a hearing conducted pursuant to NRS 425.382 to 425.3852, inclusive, must be conducted in accordance with the provisions of this section by a qualified master appointed pursuant to NRS 425.381.~~

~~2. Subpoenas may be issued by:~~

~~(a) The master.~~

~~(b) The attorney of record for the office.~~

~~→ Obedience to the subpoena may be compelled in the same manner as provided in chapter 22 of NRS. A witness appearing pursuant to a subpoena, other than a party or an officer or employee of the Chief, is entitled to receive the fees and payment for mileage prescribed for a witness in a civil action.~~

~~3. Except as otherwise provided in this section, the master need not observe strict rules of evidence but shall apply those rules of evidence prescribed in NRS 233B.123.~~

~~4. The affidavit of any party who resides outside of the judicial district is admissible as evidence regarding the duty of support, any arrearages and the establishment of paternity. The master may continue the hearing to allow procedures for discovery regarding any matter set forth in the affidavit.~~

~~5. The physical presence of a person seeking the establishment, enforcement, modification or adjustment of an order for the support of a dependent child or the establishment of paternity is not required.~~

~~6. A verified petition, an affidavit, a document substantially complying with federally mandated forms and a document incorporated by reference in any of them, not excluded under NRS 51.065 if given in person, is admissible in evidence if given under oath by a party or witness residing outside of the judicial district.~~

~~7. A copy of the record of payments for the support of a dependent child, certified as a true copy of the original by the custodian of the record, may be forwarded to the master. The copy is evidence of facts asserted therein and is admissible to show whether payments were made.~~

~~8. Copies of bills for testing for paternity, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least 20 days before the hearing, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary and customary.~~

~~9. Documentary evidence transmitted from outside of the judicial district by telephone, telecopier or other means that do not provide an original~~

~~writing may not be excluded from evidence on an objection based on the means of transmission.~~

~~10. The master may:~~

~~(a) Conduct a hearing by telephone, audiovisual means or other electronic means outside of the judicial district in which the master is appointed.~~

~~(b) Permit a party or witness residing outside of the judicial district to be deposed or to testify by telephone, audiovisual means or other electronic means before a designated court or at another location outside of the judicial district.~~

~~* The master shall cooperate with courts outside of the judicial district in designating an appropriate location for the hearing, deposition or testimony.~~

~~11. If a party called to testify at a hearing refuses to answer a question on the ground that the testimony may be self incriminating, the master may draw an adverse inference from the refusal.~~

~~12. A privilege against the disclosure of communications between [husband and wife] spouses does not apply.~~

~~13. The defense of immunity based on the relationship of [husband and wife] a married couple or parent and child does not apply. (Deleted by amendment.)~~

Sec. 60. ~~[NRS 440.280 is hereby amended to read as follows:~~

~~440.280 1. If a birth occurs in a hospital or the mother and child are immediately transported to a hospital, the person in charge of the hospital or his or her designated representative shall obtain the necessary information, prepare a birth certificate, secure the signatures required by the certificate and file it within 10 days with the health officer of the registration district where the birth occurred. The physician in attendance shall provide the medical information required by the certificate and certify to the fact of birth within 72 hours after the birth. If the physician does not certify to the fact of birth within the required 72 hours, the person in charge of the hospital or the designated representative shall complete and sign the certification.~~

~~2. If a birth occurs outside a hospital and the mother and child are not immediately transported to a hospital, the birth certificate must be prepared and filed by one of the following persons in the following order of priority:~~

~~(a) The physician in attendance at or immediately after the birth.~~

~~(b) Any other person in attendance at or immediately after the birth.~~

~~(c) The father, mother or, if the father is absent and the mother is incapacitated, the person in charge of the premises where the birth occurred.~~

~~3. If a birth occurs in a moving conveyance, the place of birth is the place where the child is removed from the conveyance.~~

~~4. In cities, the certificate of birth must be filed sooner than 10 days after the birth if so required by municipal ordinance or regulation.~~

~~5. If the mother was:~~

~~(a) Married at the time of birth, the name of her [husband] spouse must be entered on the certificate as the [father] other parent of the child unless:~~

~~—(1) A court has issued an order establishing that a person other than the mother's [husband] *spouse* is the [father] *other parent* of the child; or~~

~~—(2) The mother and a person other than the mother's [husband] *spouse* have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.~~

~~—(b) Widowed at the time of birth but married at the time of conception, the name of her [husband] *spouse* at the time of conception must be entered on the certificate as the [father] *other parent* of the child unless:~~

~~—(1) A court has issued an order establishing that a person other than the mother's [husband] *spouse* at the time of conception is the [father] *other parent* of the child; or~~

~~—(2) The mother and a person other than the mother's [husband] *spouse* at the time of conception have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283.~~

~~—6. If the mother was unmarried at the time of birth, the name of the [father] *other parent* may be entered on the original certificate of birth only if:~~

~~—(a) The provisions of paragraph (b) of subsection 5 are applicable;~~

~~—(b) A court has issued an order establishing that the person is the [father] *other parent* of the child; or~~

~~—(c) The [mother and father] *parents* of the child have signed a declaration for the voluntary acknowledgment of paternity developed by the Board pursuant to NRS 440.283. If both [the father and mother] *parents* execute a declaration consenting to the use of the surname of [the father] *one parent* as the surname of the child, the name of [the father] *that parent* must be entered on the original certificate of birth and the surname of [the father] *that parent* must be entered thereon as the surname of the child.~~

~~—7. An order entered or a declaration executed pursuant to subsection 6 must be submitted to the local health officer, the local health officer's authorized representative, or the attending physician or midwife before a proper certificate of birth is forwarded to the State Registrar. The order or declaration must then be delivered to the State Registrar for filing. The State Registrar's file of orders and declarations must be sealed and the contents of the file may be examined only upon order of a court of competent jurisdiction or at the request of [the father or mother] *either parent* or the Division of Welfare and Supportive Services of the Department of Health and Human Services as necessary to carry out the provisions of 42 U.S.C. § 654a. The local health officer shall complete the original certificate of birth in accordance with subsection 6 and other provisions of this chapter.~~

~~—8. As used in this section, "court" has the meaning ascribed to it in NRS 125B.004.] (Deleted by amendment.)~~

Sec. 61. ~~[NRS 445B.805 is hereby amended to read as follows:~~

~~445B.805 The provisions of NRS 445B.800 do not apply to:~~

- ~~1. Transfer of registration or ownership between:~~
 - ~~(a) [Husband and wife;] Spouses; or~~
 - ~~(b) Companies whose principal business is leasing of vehicles, if there is no change in the lessee or operator of the vehicle.~~
- ~~2. Motor vehicles which are subject to prorated registration pursuant to the provisions of NRS 706.801 to 706.861, inclusive, and which are not based in this State.~~
- ~~3. Transfer of registration if evidence of compliance was issued within 90 days before the transfer.~~
- ~~4. A consignee who is conducting a consignment auction which meets the requirements set forth in NRS 445B.807 if the consignee:~~
 - ~~(a) Informs the buyer, using a form, including, without limitation, an electronic form, if applicable, as approved by the Department of Motor Vehicles, that the consignee is not required to obtain an inspection or testing of the motor vehicle pursuant to the regulations adopted by the Commission under NRS 445B.770 and that any such inspection or testing that is required must be obtained by the buyer before the buyer registers the motor vehicle;~~
 - ~~(b) Posts a notice in a conspicuous location at the site of the consignment auction or, if applicable, on the Internet website on which the consignment auction is conducted, and includes a notice in any document published by the consignee that lists the vehicles available for the consignment auction or solicits persons to bid at the consignment auction, stating that the consignee is exempt from any requirement to obtain an inspection or testing of a motor vehicle pursuant to the regulations adopted by the Commission under NRS 445B.770 if the motor vehicle is sold at the consignment auction; and~~
 - ~~(c) Makes the vehicle available for inspection before the consignment auction:~~
 - ~~(1) In the case of a live auction with an auctioneer verbally calling for and accepting bids, at the location of the consignment auction; or~~
 - ~~(2) In the case of an auction that is conducted on an auction website on the Internet by a consignee who is certified pursuant to subsection 2 of NRS 445B.807, at the primary place of business of the consignee conducting the consignment auction.}] (Deleted by amendment.)~~

Sec. 62. ~~[NRS 598B.110 is hereby amended to read as follows:~~

- ~~598B.110 1. A creditor shall consider the combined income of both [husband and wife] spouses for the purpose of extending credit to a married couple and shall not exclude the income of either without just cause. The creditor shall determine the creditworthiness of the couple upon a reasonable evaluation of the past, present and foreseeable economic circumstances of both spouses.~~
- ~~2. A request for the signatures of both parties to a marriage for the purpose of creating a valid lien or passing clear title, waiving inchoate rights to property or assigning earnings, does not constitute credit discrimination.~~
- ~~3. An inquiry of marital status does not constitute discrimination for the purposes of this chapter if such inquiry is for the purpose of ascertaining the~~

~~creditor's rights and remedies applicable to the particular extension of credit, and not to discriminate in a determination of creditworthiness.~~

~~4. Consideration or application of state property laws directly or indirectly affecting creditworthiness does not constitute discrimination for the purposes of this chapter.] (Deleted by amendment.)~~

Sec. 63. ~~[NRS 645B.015 is hereby amended to read as follows:~~

~~645B.015 Except as otherwise provided in NRS 645B.016, the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 U.S.C. §§ 5101 et seq., and any regulations adopted pursuant thereto and other applicable law, the provisions of this chapter do not apply to:~~

~~1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, industrial loan companies, credit unions, thrift companies or insurance companies, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.~~

~~2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.~~

~~3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.~~

~~4. An attorney at law rendering services in the performance of his or her duties as an attorney at law.~~

~~5. A real estate broker rendering services in the performance of his or her duties as a real estate broker.~~

~~6. Any person doing any act under an order of any court.~~

~~7. Any one natural person, or [husband and wife,] *married couple*, who provides money for investment in commercial loans secured by a lien on real property, on his or her own account, unless such a person makes a loan secured by a lien on real property using his or her own money and assigns all or a part of his or her interest in the loan to another person, other than his or her spouse or child, within 3 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.~~

~~8. A natural person who only offers or negotiates terms of a residential mortgage loan:~~

~~(a) With or on behalf of an immediate family member of the person; or~~

~~(b) Secured by a dwelling that served as the person's residence.~~

~~9. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.~~

~~10. A seller of real property who offers credit secured by a mortgage of the property sold.~~

~~11. A nonprofit agency or organization:~~

~~(a) Which provides self-help housing for a borrower who has provided part of the labor to construct the dwelling securing the borrower's loan;~~

- ~~— (b) Which does not charge or collect origination fees in connection with the origination of residential mortgage loans;~~
- ~~— (c) Which only makes residential mortgage loans at an interest rate of 0 percent per annum;~~
- ~~— (d) Whose volunteers, if any, do not receive compensation for their services in the construction of a dwelling;~~
- ~~— (e) Which does not profit from the sale of a dwelling to a borrower; and~~
- ~~— (f) Which maintains tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3).~~
- ~~12. A housing counseling agency approved by the United States Department of Housing and Urban Development.] (Deleted by amendment.)~~
- Sec. 64. ~~[NRS 645E.150 is hereby amended to read as follows:~~
- ~~645E.150 Except as otherwise provided in NRS 645E.160, the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 U.S.C. §§ 5101 et seq., and any regulations adopted pursuant thereto or other applicable law, the provisions of this chapter do not apply to:~~
- ~~1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, industrial loan companies, credit unions, thrift companies or insurance companies, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.~~
- ~~2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.~~
- ~~3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.~~
- ~~4. An attorney at law rendering services in the performance of his or her duties as an attorney at law.~~
- ~~5. A real estate broker rendering services in the performance of his or her duties as a real estate broker.~~
- ~~6. Any person doing any act under an order of any court.~~
- ~~7. Any one natural person, or [husband and wife,] *married couple*, who provides money for investment in commercial loans secured by a lien on real property, on his or her own account, unless such a person makes a loan secured by a lien on real property using his or her own money and assigns all or a part of his or her interest in the loan to another person, other than his or her spouse or child, within 2 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.~~
- ~~8. A natural person who only offers or negotiates terms of a residential mortgage loan:~~
- ~~— (a) With or on behalf of an immediate family member of the person; or~~
- ~~— (b) Secured by a dwelling that served as the person's residence.~~

~~9. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.~~

~~10. A seller of real property who offers credit secured by a mortgage of the property sold.~~

~~11. A nonprofit agency or organization:~~

~~(a) Which provides self-help housing for a borrower who has provided part of the labor to construct the dwelling securing the borrower's loan;~~

~~(b) Which does not charge or collect origination fees in connection with the origination of residential mortgage loans;~~

~~(c) Which only makes residential mortgage loans at an interest rate of 0 percent per annum;~~

~~(d) Whose volunteers, if any, do not receive compensation for their services in the construction of a dwelling; and~~

~~(e) Which does not profit from the sale of a dwelling to a borrower.~~

~~12. A housing counseling agency approved by the United States Department of Housing and Urban Development.] (Deleted by amendment.)~~

Sec. 65. ~~[1.]~~ This act becomes effective upon passage and approval.

~~[2. The amendatory provisions of sections 2, 3 and 5 to 55, inclusive, and 57 to 64, inclusive, of this act expire by limitation on the date on which a final court ruling is issued upholding Section 21 of Article 1 of the Nevada Constitution.]~~

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 439 to Senate Bill No. 395 deletes all sections of the bill with exception of sections 1, 4, 27 and 56. Section 1 revises provisions concerning the placement of informational brochures outside the offices and branch offices of county clerks concerning services offered by privately owned wedding chapels and related businesses. Sections 4 and 56 authorize a board of county commissioners in a county whose population is 700,000 or more to adopt an ordinance imposing a fee of not more than \$14 on the issuance of a wedding license, the proceeds of which must be used to promote marriage tourism. Section 27 provides for the division of any community property or liability that was omitted by the court from an initial divorce decree or judgment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 422.

Bill read second time.

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

Amendment No. 389.

SUMMARY—Allows for the continued inclusion of certain drugs on the list of preferred prescription drugs to be used for the Medicaid program. (BDR 38-1159)

AN ACT relating to Medicaid; ~~[repealing]~~ postponing the prospective expiration of provisions governing the list of preferred prescription drugs to

be used for the Medicaid program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Department of Health and Human Services is required to develop by regulation a list of preferred prescription drugs to be used for the Medicaid program. The Department is also required to establish a list of prescription drugs that must be excluded from any restrictions that are imposed on drugs that are on the list of preferred prescription drugs. Existing law further requires the Department to include certain specified drugs on the list of drugs excluded from the restrictions. (NRS 422.4025) Before July 1, 2010, the Department was required to exclude certain atypical and typical antipsychotic medications, anticonvulsant medications and antidiabetic medications from the restrictions that are imposed on drugs which are on the list of preferred prescription drugs, but the Legislature suspended this requirement for the period from July 1, 2010, to June 30, 2015. (Chapter 4, Statutes of Nevada 2010, 26th Special Session, p. 35; chapter 225, Statutes of Nevada 2011, p. 985) This bill ~~repeals~~ postpones the prospective expiration of such provisions ~~[, which has the effect of permanently authorizing the inclusion of those types of medications in the restrictions that are imposed on drugs which are on the list of preferred prescription drugs to be used for the Medicaid program.]~~ until June 30, 2017.

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

Section 1. Section 4 of chapter 4, Statutes of Nevada 2010, 26th Special Session, as amended by section 1 of chapter 224, Statutes of Nevada 2011, at page 985, is hereby amended to read as follows:

Sec. 4. This act becomes effective on July 1, 2010 ~~for~~, and expires by limitation on June 30, [2015.] 2017.

Sec. 2. This act becomes effective upon passage and approval.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 389 to Senate Bill No. 422: extends until June 30, 2017, a previous suspension by the Legislature to exclude certain atypical and typical antipsychotic medications, anticonvulsant medications and antidiabetic medications from restrictions imposed on drugs on the list of preferred prescription drugs to be used for the Medicaid program.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 445.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 326.

SUMMARY—Revises provisions relating to race books and sports pools.
(BDR 41-1134)

AN ACT relating to gaming; requiring the Nevada Gaming Commission to adopt regulations relating to certain risk management by an operator of a race book or sports pool; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes various provisions for the licensing and control of gaming in this State. (Chapter 463 of NRS) This bill requires the Nevada Gaming Commission to adopt regulations relating to global risk management, which is defined as an operation, by a person who has been issued a license to operate a race book or sports pool, of certain risk management services between and among various jurisdictions through communications technology for the purposes of the management, or consultation or instruction in the management, of wagering pools and the transmission of information relating to wagering pools or other similar information.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *As used in sections 2 and 3 of this act, unless the context otherwise requires, "global risk management" means the operation, by a person who has been issued a license to operate a race book or sports pool, of risk management services between and among permissible jurisdictions through communications technology for the purposes of providing the management, or consultation or instruction in the management, of wagering pools and the transmission of information relating to wagering pools or other similar information. The term:*

(a) *Includes, without limitation:*

(1) *The management of risks associated with a wagering pool for a race or sporting event or any other event for which a wager may be accepted.*

(2) *The ~~giving of directions to an establishment for the~~ setting or changing of bets or wagers, cutoff times for bets or wagers, acceptance or rejection of bets or wagers, pooling or laying off of bets or wagers, lines, point spreads, odds or other activity relating to betting or wagering.*

(3) *The use, transmittal and accumulation of information and data for the purpose of providing risk management services.*

(b) *Does not include:*

(1) *The transmission or placement of a bet or wager for a race or sporting event or any other event for which a wager may be accepted between or among permissible jurisdictions.*

(2) *The provision of any information service, as defined by NRS 463.01642.*

2. *As used in this section:*

(a) *"Communications technology" has the meaning ascribed to it in NRS 463.016425.*

(b) "Permissible jurisdiction" means any jurisdiction in which global risk management or the betting or wagering on a race or sporting event is lawful or not otherwise expressly prohibited under the laws of that jurisdiction.

(c) "Wagering pool" means a pool or a combination of multiple pools for the placement of bets or wagers for a race or sporting event or any other event for which a wager may be accepted and which is located in a permissible jurisdiction.

Sec. 3. The Commission shall, with the advice and assistance of the Board, adopt regulations for global risk management. The regulations adopted by the Commission pursuant to this section may include, without limitation:

1. Provisions which establish minimum internal and operational control standards for global risk management; and

2. Any additional provisions which the Commission deems necessary and appropriate to carry out the provisions of this section and which are consistent with the public policy of this State pursuant to NRS 463.0129.

Sec. 4. NRS 465.090 is hereby amended to read as follows:

465.090 1. It is unlawful for a person to furnish or disseminate any information in regard to racing or races, from any point within this state to any point outside the State of Nevada, by telephone, telegraph, teletype, radio or any signaling device, with the intention that the information is to be used to induce betting or wagering on the result of the race or races, or with the intention that the information is to be used to decide the result of any bet or wager made upon the race or races.

2. This section does not prohibit:

(a) A newspaper of general circulation from printing and disseminating news concerning races that are to be run or the results of races that have been run; ~~or~~

(b) The furnishing or dissemination of information concerning wagers made in an off-track pari-mutuel system of wagering approved by the Nevada Gaming Commission ~~[-]~~; or

(c) Global risk management pursuant to sections 2 and 3 of this act.

3. A person who violates the provisions of this section 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 by a fine of not more than \$5,000, or by both fine and imprisonment.

Sec. 5. NRS 465.094 is hereby amended to read as follows:

465.094 The provisions of NRS 465.092 and 465.093 do not apply to global risk management pursuant to sections 2 and 3 of this act or to a wager placed by a person for the person's own benefit or, without compensation, for the benefit of another that is accepted or received by, placed with, or sent, transmitted or relayed to:

1. A race book or sports pool that is licensed pursuant to chapter 463 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering;

2. A person who is licensed to engage in off-track pari-mutuel wagering pursuant to chapter 464 of NRS, if the wager is accepted or received within this State and otherwise complies with subsection 3 of NRS 464.020 and all other applicable laws and regulations concerning wagering;

3. A person who is licensed to operate a mobile gaming system pursuant to chapter 463 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering;

4. Any other person or establishment that is licensed to engage in wagering pursuant to title 41 of NRS, if the wager is accepted or received within this State and otherwise complies with all other applicable laws and regulations concerning wagering; or

5. Any other person or establishment that is licensed to engage in wagering in another jurisdiction and is permitted to accept or receive a wager from patrons within this State under an agreement entered into by the Governor pursuant to NRS 463.747.

Sec. 6. The Nevada Gaming Commission shall adopt the regulations required by section 3 of this act on or before September 30, 2015.

Sec. 7. This act becomes effective upon passage and approval.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 445 deletes vague language from the bill that may inappropriately limit the means by which a global risk management company may provide services to a gaming entity and adds more accurate language in its place.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 446.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 347.

SUMMARY—Revises provisions relating to businesses. (BDR 7-1088)

AN ACT relating to business; ~~for entities;~~ establishing procedures for the ratification or validation of certain noncompliant corporate acts; providing that a trust company may be formed as a corporation; revising provisions governing the stock ledger maintained by the registered agent of a corporation; revising provisions setting forth the required officers of a corporation; revising provisions governing transactions involving interested directors or officers; revising provisions governing the stock of corporations; revising provisions governing meetings of stockholders of corporations; revising provisions governing certain transactions between corporations and interested stockholders; revising provisions relating to articles and

certificates of incorporation; revising provisions establishing the time of organization of certain business entities; revising provisions governing the allocation of certain liabilities after a merger of business entities; revising provisions governing notarial acts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill establishes additional, nonexclusive procedures by which a corporate act that is not in compliance with applicable law or the articles of incorporation or bylaws of the corporation may be ratified or validated by the directors and ~~(shareholders)~~ stockholders of the corporation.

Under existing law, a trust company organized for the purpose of conducting a banking business may not be organized as a corporation. (NRS 78.020) Section 2 of this bill provides that a trust company may be formed as a corporation under chapter 78 of NRS but that the trust company may not transact business in this State as a trust company until it complies with existing law governing trust companies.

Existing law requires a corporation to keep, among other documents, a stock ledger or duplicate thereof, revised annually, at its registered office. (NRS 78.105) Section 3 of this bill specifies a timeline for revising the stock ledger by requiring the stock ledger to be revised not later than 60 days after the date by which the corporation is required to file its annual list.

Section 4 of this bill revises provisions relating to the officers of a corporation to clarify that vice presidents, assistant secretaries and assistant treasurers are not officers of a corporation unless those persons are designated as officers.

Existing law authorizes a corporation to have more than one class or series of stock if the articles of incorporation prescribe the classes and series, the number of shares of each class or series and the voting powers, designations, preferences, limitations, restrictions and relative rights of each class or series, or if the articles of incorporation authorize the board of directors to prescribe those matters. (NRS 78.195) Section 6 of this bill specifically states that all shares of the same class or series must have the same voting powers, designations, preferences, limitations, restrictions and relative rights. Section 6 also specifically states that the voting powers, designations, preferences, limitations, restrictions and relative rights for the shares of a class or series of stock may be made dependent upon certain facts or events.

Existing law provides that if more than one class or series of stock is authorized, the articles of incorporation or the resolution of the board of directors authorizing the class or series must describe the voting powers, designations, preferences, limitations, restrictions, relative rights and distinguishing designation of the class or series. Section 6 provides that these matters must be set forth in the certificate of designation filed with the Secretary of State, ~~[rather than the resolution of the board of directors must describe these matters,]~~ and sections 7, 8 and 12 of this bill make conforming changes to refer to the certificate of designation rather than the resolution of

the board of directors ~~by~~ approving the certificate of designation. Section 7 further specifies that when a filed certificate of designation, or amendment thereto, becomes effective, the certificate or amendment has the effect of amending articles of incorporation.

Existing law provides that in certain circumstances, a corporation may change the numbers of shares of a class or series of stock by a resolution adopted by the board of directors, without obtaining the approval of the stockholders. Such a change is not effective until a certificate is filed in the Office of the Secretary of State setting forth certain information concerning the shares of stock of the corporation. (NRS 78.207, 78.209) Section 9 of this bill specifies that when a filed certificate changing the number of shares of a class or series of stock becomes effective, the certificate has the effect of amending articles of incorporation. (NRS 78.209)

Existing law authorizes a board of directors of a corporation to authorize shares of stock to be issued for consideration of various forms. (NRS 78.211) Section 10 of this bill provides that the nature and amount of that consideration may be made dependent upon a formula approved by the board or upon certain other facts or events. Section 10 also provides that issued shares of stock are outstanding shares unless the shares are treasury shares.

Existing law provides that stockholders may participate in a meeting of stockholders through electronic communications, videoconferencing, teleconferencing or other technology under certain circumstances. (NRS 78.320) Section 11 of this bill revises this provision to provide that if authorized by the articles of incorporation or bylaws, a meeting of stockholders may be held solely through the use of such technology.

Existing law sets forth certain restrictions on combinations and other transactions between certain corporations and interested stockholders. (NRS 78.411-78.444) Section 14 of this bill provides that those provisions do not apply to a combination of a resident domestic corporation with an interested stockholder of that corporation after the expiration of 4 years after the person first became an interested stockholder. Section 15 of this bill authorizes a resident domestic corporation to engage in a combination with any interested stockholder less than 2 years after the person first became an interested stockholder if the combination meets the requirements of the articles of incorporation of the resident domestic corporation as well as certain requirements set forth in existing law. Sections 16-19 of this bill clarify the language of certain provisions governing combinations and other transactions between certain corporations and interested stockholders.

Sections 20-31 of this bill change references to a certificate of incorporation to refer to articles of incorporation.

Existing law provides that a limited liability company or a limited partnership is considered legally organized at the time of the filing of organizational documents with the Secretary of State or upon some later date and time as specified in those documents. (NRS 86.201, 87A.235, 88.350) Sections 32, 34 and 35 of this bill revise these provisions to provide that

those business entities are considered legally organized at the time of the filing with the Secretary of State.

Under existing law, the surviving entity in certain mergers between a parent entity and a subsidiary entity may be either the parent or the subsidiary. (NRS 92A.180) Section 36 of this bill requires the surviving entity in the merger, rather than the parent entity, to mail a copy or summary of the plan of merger to each owner of the subsidiary who does not waive the mailing requirement in writing.

Existing law establishes the effect of a merger between business entities, including, without limitation, the effect of the merger on the liabilities of the surviving entity and the constituent entities. (NRS 92A.250) Section 37 of this bill revises this provision to provide that an owner of a constituent entity remains liable for the obligations of the constituent entity that existed at the time of the merger to the extent the owner was liable before the merger.

Section 38 of this bill provides that the certificate evidencing a notarial act must be signed in the same manner as the signature that is on file with the Secretary of State only if the notarial officer is a notary public with such a signature on file with the Secretary of State.

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

Section 1. Chapter 78 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except to the extent expressly prohibited in the articles of incorporation or an amendment thereto, in each case filed and effective on or after October 1, 2015, any corporate act not in compliance, or purportedly not in compliance, with this title or the articles of incorporation or bylaws in effect at the time of such corporate act may be ratified or validated in accordance with this section. This section does not apply to circumvent or contravene the provisions of NRS 78.378 to 78.3793, inclusive, or NRS 78.411 to 78.444, inclusive. Except as otherwise determined by the district court pursuant to its authority under subsection 5, a ratification or validation of a corporate act in accordance with this section is conclusive in the absence of actual fraud in the transaction. Ratification or validation under this section must not be the exclusive means by which a corporate act may be ratified or validated. This section shall not be construed to limit the authority of the board of directors, the stockholders or the corporation to effect any lawful means of ratification or validation of a corporate act or correction of a record, including, without limitation, the authority of:

(a) The board of directors to act, or to consent to an action before or after the action, pursuant to NRS 78.315;

(b) The stockholders to act, or to consent to an action before or after the action, pursuant to NRS 78.320; or

(c) The corporation to correct a record filed in the Office of the Secretary of State pursuant to NRS 78.0295.

2. Any ratification or validation of a corporate act pursuant to this section must be approved by the board of directors and, as applicable, the stockholders in accordance with this title and the articles of incorporation and bylaws in effect at the time of such ratification or validation, unless a higher approval standard was or would have been applicable to the original taking or purported taking of the corporate act, in which case such ratification or validation must be approved in accordance with such higher approval standard. The voting power of any shares issued or purportedly issued pursuant to the corporate act being ratified or validated must be disregarded for all purposes of the stockholder approval of such corporate act as required by this subsection, including for purposes of determining a quorum at a meeting of stockholders.

3. Notice of any ratification or validation of a corporate act pursuant to this section must be given not later than 10 days after the approval of such ratification or validation pursuant to subsection 2, to each stockholder of record at the time of such ratification or validation, whether or not action by the stockholders is required for such ratification or validation.

4. If a corporate act ratified or validated pursuant to this section would have required any filing with the Secretary of State pursuant to the provisions of this title, or if such ratification or validation would cause any such filing to be inaccurate or incomplete in any material respect, the corporation shall make, amend or correct each such filing in accordance with this title, including this subsection. Any such filing, amendment or correction:

(a) Must be accompanied by a certificate of validation indicating that the filing, amendment or correction is being made in connection with a ratification or validation of a corporate act in accordance with this section and specifying the effective date and time of the filing, amendment or correction, which may be before the date and time of filing; and

(b) Must otherwise be filed with the Secretary of State in accordance with the requirements of this title.

5. The district court has plenary and exclusive jurisdiction in equity, upon application of any person adversely affected, to administer and provide equitable relief under this section, including, without limitation, the authority to confirm, nullify, modify or compel any ratification or validation taken or proposed to be taken pursuant to this section, including any filing, amendment or correction pursuant to subsection 4. The provisions of this section shall not be construed to prescribe or circumscribe which facts and circumstances the court may consider or which remedies the court may grant in exercising its jurisdiction under this section. Any action, application or petition relating to a ratification or validation taken or proposed to be taken pursuant to this section must be filed in the district court:

(a) Not later than 180 days after the notice required by subsection 3 is given; and

(b) In the county where the principal office of the corporation is located or, if the principal office is not located in this State, in the county in which the corporation's registered office is located.

6. Unless otherwise determined by the district court pursuant to its authority under subsection 5, a ratification or validation of a corporate act in accordance with this section relates back to the date of the corporate act.

7. As used in this section:

(a) "Corporate act" means:

(1) Any act or purported act of the board of directors;

(2) Any act or purported act of the stockholders; or

(3) Any other act or transaction taken or purportedly taken by or on behalf of the corporation, including, without limitation, any issuance or purported issuance of stock or other securities of the corporation.

(b) "Higher approval standard" means any provision set forth in the articles of incorporation or bylaws in effect at the time of the original taking or purported taking of a corporate act:

(1) Requiring action of the directors or stockholders, at a meeting or by written consent, to be taken by a proportion greater than otherwise would have been required pursuant to this chapter if the articles of incorporation and bylaws were silent as to the required proportion;

(2) Requiring a greater proportion of the directors or stockholders to constitute a quorum for the transaction of business at a meeting than otherwise would have been required pursuant to this chapter if the articles of incorporation and bylaws were silent as to the required proportion;

(3) Requiring, prohibiting or prescribing conditions on action of the directors or stockholders at a meeting or by written consent;

(4) Requiring separate action of the holders of shares of any class or series of the corporation's stock, unless no shares of such class or series are outstanding at the time of the ratification or validation of the corporate act pursuant to this section;

(5) Requiring separate action of the holders of securities of the corporation other than stock, unless such securities are not outstanding at the time of the ratification or validation of the corporate act pursuant to this section; or

(6) Requiring separate action of any specified person or persons.

Sec. 2. NRS 78.020 is hereby amended to read as follows:

78.020 1. ~~[Insurance]~~ Trust companies, insurance companies, mutual fire insurance companies, surety companies, express companies and railroad companies may be formed under this chapter, but such a corporation may not:

(a) Transact any such business within this State until it has first complied with all laws concerning or affecting the right to engage in such business.

(b) Infringe the laws of any other state or country in which it may intend to engage in business, by so incorporating under this chapter.

2. No ~~[trust company,]~~ savings and loan association, thrift company or corporation organized for the purpose of conducting a banking business may be organized under this chapter.

Sec. 3. NRS 78.105 is hereby amended to read as follows:

78.105 1. A corporation shall keep a copy of the following records at its registered office:

(a) A copy certified by the Secretary of State of its articles of incorporation, and all amendments thereto;

(b) A copy certified by an officer of the corporation of its bylaws and all amendments thereto; and

(c) A stock ledger or a duplicate stock ledger, revised annually ~~[,]~~ *not later than 60 days after the date by which an annual list is required to be filed pursuant to NRS 78.150*, containing the names, alphabetically arranged, of all persons who are stockholders *of record* of the corporation, showing their places of residence, if known, and the number of shares held by them respectively. In lieu of the stock ledger or duplicate stock ledger, the corporation may keep a statement setting out the name of the custodian of the stock ledger or duplicate stock ledger, and the present and complete mailing or street address where the stock ledger or duplicate stock ledger specified in this section is kept.

2. A stock ledger, duplicate stock ledger or statement setting out the name of the custodian of the stock ledger or duplicate stock ledger described in paragraph (c) of subsection 1 must be maintained by the registered agent of the corporation for 3 years following the resignation or termination of the registered agent or the dissolution of the corporation by the Secretary of State.

3. Any person who has been a stockholder of record of a corporation for at least 6 months immediately preceding the demand, or any person holding, or thereunto authorized in writing by the holders of, at least 5 percent of all of its outstanding shares, upon at least 5 days' written demand is entitled to inspect in person or by agent or attorney, during usual business hours, the records required by subsection 1 and make copies therefrom. Holders of voting trust certificates representing shares of the corporation must be regarded as stockholders for the purpose of this subsection. Every corporation that neglects or refuses to keep the records required by subsection 1 open for inspection, as required in this subsection, shall forfeit to the State the sum of \$25 for every day of such neglect or refusal.

4. If any corporation willfully neglects or refuses to make any proper entry in the stock ledger or duplicate copy thereof, or neglects or refuses to permit an inspection of the records required by subsection 1 upon demand by a person entitled to inspect them, or refuses to permit copies to be made therefrom, as provided in subsection 3, the corporation is liable to the person injured for all damages resulting to the person therefrom.

5. When the corporation keeps a statement in the manner provided for in paragraph (c) of subsection 1, the information contained thereon must be

given to any stockholder of the corporation demanding the information, when the demand is made during business hours. Every corporation that neglects or refuses to keep a statement available, as in this subsection required, shall forfeit to the State the sum of \$25 for every day of such neglect or refusal.

6. In every instance where an attorney or other agent of the stockholder seeks the right of inspection, the demand must be accompanied by a power of attorney signed by the stockholder authorizing the attorney or other agent to inspect on behalf of the stockholder.

7. The right to copy records under subsection 3 includes, if reasonable, the right to make copies by photographic, xerographic or other means.

8. The corporation may impose a reasonable charge to recover the costs of labor and materials and the cost of copies of any records provided to the stockholder.

Sec. 4. NRS 78.130 is hereby amended to read as follows:

78.130 1. Every corporation must have a president, a secretary and a treasurer, or the equivalent thereof.

2. Every corporation may also have ~~one or more vice presidents, assistant secretaries and assistant treasurers, and~~ such other officers and agents as may be deemed necessary.

3. All officers must be natural persons and must be chosen in such manner, hold their offices for such terms and have such powers and duties as may be prescribed by the bylaws or determined by the board of directors. Any natural person may hold two or more offices.

4. An officer holds office after the expiration of his or her term until a successor is chosen or until the officer's resignation or removal before the expiration of his or her term. A failure to elect officers does not require the corporation to be dissolved. Any vacancy occurring in an office of the corporation by death, resignation, removal or otherwise, must be filled as the bylaws provide, or in the absence of such a provision, by the board of directors.

Sec. 5. NRS 78.140 is hereby amended to read as follows:

78.140 1. A contract or other transaction is not void or voidable solely because:

(a) The contract or transaction is between a corporation and:

(1) One or more of its directors or officers; or

(2) Another corporation, firm or association in which one or more of its directors or officers are directors or officers or are financially interested;

(b) A common or interested director or officer:

(1) Is present at the meeting of the board of directors or a committee thereof which authorizes or approves the contract or transaction; or

(2) Joins in the signing of a written consent which authorizes or approves the contract or transaction pursuant to subsection 2 of NRS 78.315; or

(c) The vote or votes of a common or interested director are counted for the purpose of authorizing or approving the contract or transaction,

↪ if one of the circumstances specified in subsection 2 exists.

2. The circumstances in which a contract or other transaction is not void or voidable pursuant to subsection 1 are:

(a) The fact of the common directorship, office or financial interest is known to the board of directors or committee, and the ~~[board]~~ *directors or members of the committee* ~~[authorizes, approves or ratifies]~~, *other than any common or interested directors or members of the committee, approve or ratify* the contract or transaction in good faith. ~~[by a vote sufficient for the purpose without counting the vote or votes of the common or interested director or directors.]~~

(b) The fact of the common directorship, office or financial interest is known to the stockholders, and ~~[they]~~ *stockholders holding a majority of the voting power* approve or ratify the contract or transaction in good faith. ~~[by a majority vote of stockholders holding a majority of the voting power.]~~ The votes of the common or interested directors or officers must be counted in any such vote of stockholders.

(c) The fact of the common directorship, office or financial interest is not known to the director or officer at the time the transaction is brought before the board of directors of the corporation for action.

(d) The contract or transaction is fair as to the corporation at the time it is authorized or approved.

3. Common or interested directors *or common or interested members of the committee* may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee thereof which authorizes, approves or ratifies a contract or transaction, and if the votes of the common or interested directors *or common or interested members of the committee* are not counted at the meeting, then a majority of the disinterested directors *or disinterested members of the committee* may authorize, approve or ratify a contract or transaction.

4. The fact that the vote or votes of the common or interested director or directors, *or common or interested member or members of the committee*, are not counted for purposes of subsection 2 does not prohibit any authorization, approval or ratification of a contract or transaction to be given by written consent pursuant to subsection 2 of NRS 78.315, regardless of whether the common or interested director signs such written consent or abstains in writing from providing consent.

5. Unless otherwise provided in the articles of incorporation or the bylaws, the board of directors, without regard to personal interest, may establish the compensation of directors for services in any capacity. If the board of directors establishes the compensation of directors pursuant to this subsection, such compensation is presumed to be fair to the corporation unless proven unfair by a preponderance of the evidence.

Sec. 6. NRS 78.195 is hereby amended to read as follows:

78.195 1. If a corporation desires to have more than one class or series of stock, the articles of incorporation must prescribe, or vest authority in the

board of directors to prescribe, the classes, series and the number of each class or series of stock and the voting powers, designations, preferences, limitations, restrictions and relative rights of each class or series of stock. If more than one class or series of stock is authorized, the articles of incorporation or the resolution of the board of directors ~~[passed]~~ *adopted* pursuant to a provision of the articles must prescribe a distinguishing designation for each class and series. The voting powers, designations, preferences, limitations, restrictions, relative rights and distinguishing designation of each class or series of stock must be described in the articles of incorporation or the resolution of the board of directors *and the certificate of designation filed pursuant to subsection 1 of NRS 78.1955* before the issuance of shares of that class or series.

2. All shares of a *class or series* must have voting powers, designations, preferences, limitations, restrictions and relative rights identical with those of other shares of the same *class or series* and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

3. Unless otherwise provided in the articles of incorporation, no stock issued as fully paid up may ever be assessed and the articles of incorporation must not be amended in this particular.

4. ~~[Any rate, condition or time for payment of distributions on any]~~ *The voting powers, designations, preferences, limitations, restrictions and relative rights for the shares of a class or series of stock may be made dependent upon any fact or event which may be ascertained outside the articles of incorporation [for the resolution providing for the distributions adopted by the board of directors] if the manner in which a fact or event may operate upon the [rate, condition or time of payment for the distributions] voting powers, designations, preferences, limitations, restrictions and relative rights is stated in the articles of incorporation . [for the resolution.]* As used in this subsection, "fact or event" includes, without limitation, the existence of a fact or occurrence of an event, including, without limitation, a determination or action by a person, the corporation itself or any government, governmental agency or political subdivision of a government.

5. The provisions of this section do not restrict the directors of a corporation from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that grant or deny rights, privileges, power or authority to a holder or holders of a specified number of shares or percentage of share ownership or voting power.

Sec. 7. NRS 78.1955 is hereby amended to read as follows:

78.1955 1. If the voting powers, designations, preferences, limitations, restrictions and relative rights of any class or series of stock have been established by a resolution of the board of directors pursuant to a provision in the articles of incorporation, a certificate of designation setting forth the resolution and stating the number of shares for each designation must be

signed by an officer of the corporation and filed with the Secretary of State. A certificate of designation signed and filed pursuant to this section must become effective before the issuance of any shares of the class or series.

2. Unless otherwise provided in the articles of incorporation or the certificate of designation being amended, if no shares of a class or series of stock established by ~~[a resolution of the board of directors]~~ *a certificate of designation filed pursuant to subsection 1* have been issued, the designation of the class or series, the number of the class or series and the voting powers, designations, preferences, limitations, restrictions and relative rights of the class or series may be amended by a resolution of the board of directors pursuant to a certificate of amendment filed in the manner provided in subsection 4.

3. Unless otherwise provided in the articles of incorporation or the certificate of designation, if shares of a class or series of stock established by ~~[a resolution of the board of directors]~~ *a certificate of designation filed pursuant to subsection 1* have been issued, the designation of the class or series, the number of the class or series and the voting powers, designations, preferences, limitations, restrictions and relative rights of the class or series may be amended by a resolution of the board of directors only if the amendment is approved as provided in this subsection. Unless otherwise provided in the articles of incorporation or the certificate of designation, the proposed amendment adopted by the board of directors must be approved by the vote of stockholders holding shares in the corporation entitling them to exercise a majority of the voting power, or such greater proportion of the voting power as may be required by the articles of incorporation or the certificate of designation, of:

- (a) The class or series of stock being amended; and
- (b) Each class and each series of stock which, before amendment, is senior to the class or series being amended as to the payment of distributions upon dissolution of the corporation, regardless of any limitations or restrictions on the voting power of that class or series.

4. A certificate of amendment to a certificate of designation must be signed by an officer of the corporation and filed with the Secretary of State and must:

- (a) Set forth the original designation and the new designation, if the designation of the class or series is being amended;
- (b) State that no shares of the class or series have been issued or state that the approval of the stockholders required pursuant to subsection 3 has been obtained; and
- (c) Set forth the amendment to the class or series or set forth the designation of the class or series, the number of the class or series and the voting powers, designations, preferences, limitations, restrictions and relative rights of the class or series, as amended.

5. A certificate filed pursuant to subsection 1 or 4 is effective at the time of the filing of the certificate with the Secretary of State or upon a later date

and time as specified in the certificate, which date must not be more than 90 days after the date on which the certificate is filed. If a certificate filed pursuant to subsection 1 or 4 specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.

6. If shares of a class or series of stock established by a certificate of designation are not outstanding, the corporation may file a certificate which states that no shares of the class or series are outstanding and which contains the resolution of the board of directors authorizing the withdrawal of the certificate of designation establishing the class or series of stock. The certificate must identify the date and certificate of designation being withdrawn and must be signed by an officer of the corporation and filed with the Secretary of State. Upon filing the certificate and payment of the fee required pursuant to NRS 78.765, all matters contained in the certificate of designation regarding the class or series of stock are eliminated from the articles of incorporation.

7. *When any certificate of designation, or any amendment thereto, filed pursuant to this section becomes effective, it shall have the effect of amending the articles of incorporation, but NRS 78.380, 78.385 and 78.390 do not apply to ~~certificates~~ a certificate of designation, or any amendment thereto, filed pursuant to this section.*

Sec. 8. NRS 78.196 is hereby amended to read as follows:

78.196 1. Each corporation must have:

(a) One or more classes or series of shares that together have unlimited voting rights; and

(b) One or more classes or series of shares that together are entitled to receive the net assets of the corporation upon dissolution.

➡ If the articles of incorporation provide for only one class of stock, that class of stock has unlimited voting rights and is entitled to receive the net assets of the corporation upon dissolution.

2. The articles of incorporation, or a *certificate of designation approved pursuant to a resolution of the board of directors ~~[pursuant thereto,] and filed in accordance with this chapter,~~ pursuant to subsection 1 of NRS 78.1955,* may authorize one or more classes or series of stock that:

(a) Have special, conditional or limited voting powers, or no right to vote, except to the extent otherwise provided by this title;

(b) Are redeemable or convertible:

(1) At the option of the corporation, the stockholders or another person, or upon the occurrence of a designated event;

(2) For cash, indebtedness, securities or other property; or

(3) In a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events;

(c) Entitle the stockholders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative or partially cumulative;

(d) Have preference over any other class or series of shares with respect to distributions, including dividends and distributions upon the dissolution of the corporation;

(e) Have par value; or

(f) Have powers, designations, preferences, limitations, restrictions and relative rights dependent upon any fact or event which may be ascertained outside of the articles of incorporation or the ~~[resolution]~~ *certificate of designation* if the manner in which the fact or event may operate on such class or series of stock is stated in the articles of incorporation or the ~~[resolution]~~ *certificate of designation*. As used in this paragraph, "fact or event" includes, without limitation, the existence of a fact or occurrence of an event, including, without limitation, a determination or action by a person, the corporation itself or any government, governmental agency or political subdivision of a government.

3. Unless otherwise provided in the articles of incorporation, or in a ~~[resolution of the board of directors]~~ *certificate of designation filed pursuant to subsection 1 of NRS 78.1955*, establishing a class or series of stock, shares which are subject to redemption and which have been called for redemption are not deemed to be outstanding shares for purposes of voting or determining the total number of shares entitled to vote on a matter on and after the date on which:

(a) Written notice of redemption has been sent to the holders of such shares; and

(b) A sum sufficient to redeem the shares has been irrevocably deposited or set aside to pay the redemption price to the holders of the shares upon surrender of any certificates.

4. The description of voting powers, designations, preferences, limitations, restrictions and relative rights of the classes or series of shares contained in this section is not exclusive.

Sec. 9. NRS 78.209 is hereby amended to read as follows:

78.209 1. A change pursuant to NRS 78.207 is not effective until after the filing in the Office of the Secretary of State of a certificate, signed by an officer of the corporation, setting forth:

(a) The number of authorized shares and the par value, if any, of each affected class or, if applicable, each affected series of shares before the change;

(b) The number of authorized shares and the par value, if any, of each affected class or, if applicable, each affected series of shares after the change;

(c) The number of shares of each affected class or, if applicable, each affected series to be issued after the change in exchange for each issued share of the same class or series;

(d) The provisions, if any, for the issuance of fractional shares, or for the payment of money or the issuance of scrip to stockholders otherwise entitled to a fraction of a share and the percentage of outstanding shares affected thereby; and

(e) That any required approval of the stockholders has been obtained.

↪ The provisions in the articles of incorporation of the corporation regarding the authorized number and par value, if any, of the changed class or, if applicable, the changed series of shares shall be deemed amended as provided in the certificate at the effective date and time of the change.

2. Unless an increase or decrease of the number of authorized shares pursuant to NRS 78.207 is accomplished by an action that otherwise requires an amendment to the articles of incorporation of the corporation, such an amendment is not required by that section.

3. A certificate filed pursuant to subsection 1 is effective at the time of the filing of the certificate with the Secretary of State or upon a later date and time as specified in the certificate, which date must not be more than 90 days after the date on which the certificate is filed. If a certificate filed pursuant to subsection 1 specifies a later effective date but does not specify an effective time, the certificate is effective at 12:01 a.m. in the Pacific time zone on the specified later date.

4. If a certificate filed pursuant to subsection 1 specifies a later effective date, the board of directors may terminate the effectiveness of the certificate by resolution ~~[-A]~~ and a certificate of termination must:

- (a) Be filed with the Secretary of State before the effective date specified in the certificate filed pursuant to subsection 1;
- (b) Identify the certificate being terminated;
- (c) State that the effectiveness of the certificate has been terminated;
- (d) Be signed by an officer of the corporation; and
- (e) Be accompanied by the fee required pursuant to NRS 78.765.

5. *When any certificate filed pursuant to subsection 1 becomes effective, it shall have the effect of amending the articles of incorporation, but NRS 78.380, 78.385 and 78.390 do not apply to a certificate of change filed pursuant to this section.*

Sec. 10. NRS 78.211 is hereby amended to read as follows:

78.211 1. The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including, but not limited to, cash, promissory notes, services performed, contracts for services to be performed or other securities of the corporation. *The nature and amount of such consideration may be made dependent upon a formula approved by the board of directors or upon any fact or event which may be ascertained outside the articles of incorporation or the resolution providing for the issuance of the shares adopted by the board of directors if the manner in which a fact or event may operate upon the nature and amount of the consideration is stated in the articles of incorporation or the resolution.* The judgment of the board of directors as to the consideration received for the shares issued is conclusive in the absence of actual fraud in the transaction.

2. When the corporation receives the consideration for which the board of directors authorized the issuance of shares, the shares issued therefor are

fully paid. *Shares that are issued are outstanding shares unless such shares are treasury shares.*

3. The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make any other arrangements to restrict the transfer of the shares. The corporation may credit distributions made for the shares against their purchase price, until the services are performed, the benefits are received or the promissory note is paid. If the services are not performed, the benefits are not received or the promissory note is not paid, the shares escrowed or restricted and the distributions credited may be cancelled in whole or in part.

4. For the purposes of this section, "benefit to the corporation" includes, without limitation, the authorization of the issuance of shares to up to 100 persons without consideration for the sole purpose of qualifying the corporation as a real estate investment trust pursuant to 26 U.S.C. §§ 856 et seq., as amended, or any successor provision, and any regulations adopted pursuant thereto.

Sec. 11. NRS 78.320 is hereby amended to read as follows:

78.320 1. Unless this chapter, the articles of incorporation or the bylaws provide for different proportions:

(a) A majority of the voting power, which includes the voting power that is present in person or by proxy, regardless of whether the proxy has authority to vote on all matters, constitutes a quorum for the transaction of business; and

(b) Action by the stockholders on a matter other than the election of directors is approved if the number of votes cast in favor of the action exceeds the number of votes cast in opposition to the action.

2. Unless otherwise provided in the articles of incorporation or the bylaws, any action required or permitted to be taken at a meeting of the stockholders may be taken without a meeting if, before or after the action, a written consent thereto is signed by stockholders holding at least a majority of the voting power, except that if a different proportion of voting power is required for such an action at a meeting, then that proportion of written consents is required.

3. In no instance where action is authorized by written consent need a meeting of stockholders be called or notice given.

4. Unless otherwise restricted by the articles of incorporation or bylaws, stockholders may participate in a meeting of stockholders through electronic communications, videoconferencing, teleconferencing or other available technology if the corporation has implemented reasonable measures to:

(a) Verify the identity of each person participating through such means as a stockholder; and

(b) Provide the stockholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the stockholders, including an opportunity to communicate, and to read or hear the proceedings of the meetings in a substantially concurrent manner with such proceedings.

5. *If authorized in the articles of incorporation or bylaws, a meeting of stockholders may be held solely by remote communication pursuant to subsection 4.*

6. Participation in a meeting pursuant to subsection 4 constitutes presence in person at the meeting.

~~{6.}~~ 7. Unless this chapter, the articles of incorporation or the bylaws provide for different proportions, if voting by a class or series of stockholders is permitted or required:

(a) A majority of the voting power of the class or series that is present in person or by proxy, regardless of whether the proxy has authority to vote on all matters, constitutes a quorum for the transaction of business; and

(b) An act by the stockholders of each class or series is approved if a majority of the voting power of a quorum of the class or series votes for the action.

Sec. 12. NRS 78.350 is hereby amended to read as follows:

78.350 1. Unless otherwise provided in the articles of incorporation, or in the ~~{resolution providing for the issuance of}~~ *certificate of designation establishing the class or series of stock*, ~~{adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation,}~~ every stockholder of record of a corporation is entitled at each meeting of stockholders thereof to one vote for each share of stock standing in his or her name on the records of the corporation. If the articles of incorporation, or the ~~{resolution providing for the issuance of}~~ *certificate of designation establishing the class or series of stock* ~~{adopted by the board of directors pursuant to authority expressly vested in it by the articles of incorporation,}~~ provides for more or less than one vote per share for any class or series of shares on any matter, every reference in this chapter to a majority or other proportion of stock shall be deemed to refer to a majority or other proportion of the voting power of all of the shares or those classes or series of shares, as may be required by the articles of incorporation, or in the ~~{resolution providing for the issuance of}~~ *certificate of designation establishing the class or series of stock* ~~{adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation,}~~ or the provisions of this chapter.

2. Unless a period of more than 60 days or a period of less than 10 days is prescribed or fixed in the articles of incorporation, the directors may prescribe a period not exceeding 60 days before any meeting of the stockholders during which no transfer of stock on the books of the corporation may be made, or may fix, in advance, a record date not more than 60 or less than 10 days before the date of any such meeting as the date as of which stockholders entitled to notice of and to vote at such meetings must be determined. Only stockholders of record on that date are entitled to notice or to vote at such a meeting. If a record date is not fixed, the record date is at the close of business on the day before the day on which the first notice is given or, if notice is waived, at the close of business on the day

before the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders applies to an adjournment *or postponement* of the meeting unless the board of directors fixes a new record date for the adjourned *or postponed* meeting. The board of directors must fix a new record date if the meeting is adjourned *or postponed* to a date more than 60 days later than the *meeting* date set for the original meeting.

3. The board of directors may adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined. The date prescribed by the board of directors may not precede or be more than 10 days after the date the resolution is adopted by the board of directors. If the board of directors does not adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined and:

(a) No prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the stockholders, the date is the first date on which any stockholder delivers to the corporation such consent signed by the stockholder.

(b) Prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the stockholders, the date is at the close of business on the day the board of directors adopts the resolution.

4. The provisions of this section do not restrict the directors from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that grant or deny rights, privileges, power or authority to a holder or holders of a specified number of shares or percentage of share ownership or voting power.

Sec. 13. NRS 78.370 is hereby amended to read as follows:

78.370 1. If under the provisions of this chapter stockholders are required or authorized to take any action at a meeting, the notice of the meeting must be in writing.

2. Except in the case of the annual meeting, the notice must state the purpose or purposes for which the meeting is called. In all instances, the notice must state the time when, and the place, which may be within or without this State, where the meeting is to be held, and the means of electronic communications, if any, by which stockholders and proxies shall be deemed to be present in person and vote.

3. A copy of the notice must be delivered personally, mailed postage prepaid or delivered as provided in NRS 75.150 to each stockholder of record entitled to vote at the meeting not less than 10 nor more than 60 days before the meeting. If mailed, it must be directed to the stockholder at his or her address as it appears upon the records of the corporation. Personal delivery of any such notice to any officer of a corporation or association, to any member of a limited-liability company managed by its members, to any manager of a

limited-liability company managed by managers, to any general partner of a partnership or to any trustee of a trust constitutes delivery of the notice to the corporation, association, limited-liability company, partnership or trust.

4. The articles of incorporation or the bylaws may require that the notice be also published in one or more newspapers.

5. Notice delivered or mailed to a stockholder in accordance with the provisions of this section and NRS 75.150 and the provisions, if any, of the articles of incorporation or the bylaws is sufficient, and in the event of the transfer of the stockholder's stock after such delivery or mailing and before the holding of the meeting it is not necessary to deliver or mail notice of the meeting to the transferee.

6. Unless otherwise provided in the articles of incorporation or the bylaws, if notice is required to be delivered, under any provision of this chapter or the articles of incorporation or bylaws of any corporation, to any stockholder to whom:

(a) Notice of two consecutive annual meetings, and all notices of meetings or of the taking of action by written consent without a meeting to the stockholder during the period between those two consecutive annual meetings; or

(b) All, and at least two, payments sent by first-class mail of dividends or interest on securities during a 12-month period,

➡ have been mailed addressed to the stockholder at his or her address as shown on the records of the corporation and have been returned undeliverable, the delivery of further notices to the stockholder is not required. Any action or meeting taken or held without notice to such a stockholder has the same effect as if the notice had been delivered. If any such stockholder delivers to the corporation a written notice setting forth his or her current address, the requirement that notice be delivered to the stockholder is reinstated. If the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of this chapter, the certificate need not state that notice was not delivered to persons to whom notice was not required to be delivered pursuant to this subsection. The delivery of further notices to a stockholder is still required for any notice returned as undeliverable if the notice was delivered by electronic transmission.

7. Unless the articles of incorporation or bylaws otherwise require, and except as otherwise provided in this subsection, if a stockholders' meeting is adjourned to another date, time or place, notice need not be delivered of the date, time or place of the adjourned meeting if they are announced at the meeting at which the adjournment is taken. If a new record date is fixed for ~~the~~ *an adjourned or postponed* meeting, notice of the adjourned *or postponed* meeting must be delivered to each stockholder of record as of the new record date.

Sec. 14. NRS 78.433 is hereby amended to read as follows:

78.433 1. NRS 78.411 to 78.444, inclusive, do not apply to any combination of a resident domestic corporation:

(a) Which was not, as of the date that the person first becomes an interested stockholder, a publicly traded corporation, unless the corporation's articles of incorporation provide otherwise.

(b) Whose articles of incorporation have been amended to provide that the resident domestic corporation is subject to NRS 78.411 to 78.444, inclusive, and which was not a publicly traded corporation on the effective date of the amendment, if the combination is with a person who first became an interested stockholder before the effective date of the amendment.

(c) *With an interested stockholder of the resident domestic corporation after the expiration of 4 years after the person first became an interested stockholder.*

2. The articles of incorporation of a resident domestic corporation may impose on combinations of the resident domestic corporation stricter requirements than the requirements of NRS 78.411 to 78.444, inclusive.

3. The provisions of NRS 78.411 to 78.444, inclusive, do not restrict the directors of a resident domestic corporation from taking action to protect the interests of the corporation and its stockholders, including, without limitation, adopting or signing plans, arrangements or instruments that grant or deny rights, privileges, power or authority to a holder or holders of a specified number of shares or percentage of share ownership or voting power.

Sec. 15. NRS 78.438 is hereby amended to read as follows:

78.438 1. Except as otherwise provided in NRS 78.433 to 78.437, inclusive, a resident domestic corporation may not engage in any combination with any interested stockholder of the resident domestic corporation for 2 years after the date that the person first became an interested stockholder unless ~~{-}~~ *the combination meets all of the requirements of the articles of incorporation of the resident domestic corporation and:*

(a) The combination or the transaction by which the person first became an interested stockholder is approved by the board of directors of the resident domestic corporation before the person first became an interested stockholder; or

(b) The combination is approved by the board of directors of the resident domestic corporation and, at or after that time, the combination is approved at an annual or special meeting of the stockholders of the resident domestic corporation, and not by written consent, by the affirmative vote of the holders of stock representing at least 60 percent of the outstanding voting power of the resident domestic corporation not beneficially owned by the interested stockholder or the affiliates or associates of the interested stockholder.

2. If a proposal in good faith regarding a combination is made in writing to the board of directors of the resident domestic corporation, the board of directors shall respond, in writing, within 30 days or such shorter period, if

any, as may be required by the Securities Exchange Act, setting forth its reasons for its decision regarding the proposal.

3. If a proposal in good faith to enter into a transaction by which the person will become an interested stockholder is made in writing to the board of directors of the resident domestic corporation, the board of directors, unless it responds affirmatively in writing within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, is considered to have disapproved the transaction.

Sec. 16. NRS 78.439 is hereby amended to read as follows:

78.439 A resident domestic corporation may not engage in any combination with an interested stockholder of the resident domestic corporation after the expiration of 2 years after the person first became an interested stockholder ~~{other than a}~~ *unless the combination {meeting} meets* all of the requirements of the articles of incorporation of the resident domestic corporation and : ~~{either the requirements specified in subsection 1, 2 or 3 or all of the requirements specified in NRS 78.441 to 78.444, inclusive;}~~

1. The combination ~~{was approved by the board of directors of the resident domestic corporation before such person first became an interested stockholder.~~

~~—2.—The}~~ *or* transaction by which the person first became an interested stockholder ~~{was}~~ *is* approved by the board of directors of the resident domestic corporation before the person first became an interested stockholder ~~{~~

~~—3.—}~~ ;

2. The combination is approved ~~{at an annual or special meeting of the stockholders of the resident domestic corporation held no earlier than 2 years after the date that the person first became an interested stockholder, and not by written consent,}~~ by ~~{the affirmative vote of the holders of stock representing}~~ a majority of the outstanding voting power of the resident domestic corporation not beneficially owned by the interested stockholder or any affiliate or associate of the interested stockholder ~~{}~~ ; *or*

3. *The combination meets the requirements specified in NRS 78.411 to 78.444, inclusive.*

Sec. 17. NRS 78.441 is hereby amended to read as follows:

78.441 As an alternative to a combination satisfying the requirements of subsection 1 ~~{}~~ *or* 2 ~~{or 3}~~ of NRS 78.439, a combination with an interested stockholder of the resident domestic corporation engaged in more than 2 years after the date that the person first became an interested stockholder is permissible if the requirements of NRS 78.442, 78.443 and 78.444 are satisfied and the aggregate amount of the cash and the market value, as of the date of consummation, of consideration other than cash to be received per share by all of the holders of outstanding common shares of the resident domestic corporation not beneficially owned by such interested stockholder immediately before that date is at least equal to the higher of the following:

1. The highest price per share paid by the interested stockholder, at a time when the interested stockholder was the beneficial owner, directly or indirectly, of 5 percent or more of the outstanding voting shares of the corporation, for any common shares of the same class or series acquired by the interested stockholder within 2 years immediately before the date of announcement with respect to the combination or within 2 years immediately before, or in, the transaction in which the person became an interested stockholder, whichever is higher, plus, in either case, interest compounded annually from the earliest date on which the highest price per share was paid through the date of consummation at the rate for one-year obligations of the United States Treasury in effect on that earliest date, less the aggregate amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per common share since that earliest date.

2. The market value per common share on the date of announcement with respect to the combination or on the date that the person first became an interested stockholder, whichever is higher, plus interest compounded annually from that date through the date of consummation at the rate for one-year obligations of the United States Treasury in effect on that date, less the aggregate amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per common share since that date.

Sec. 18. NRS 78.442 is hereby amended to read as follows:

78.442 As an alternative to a combination satisfying the requirements of subsection 1 ~~{-}~~ or 2 ~~{or 3}~~ of NRS 78.439, a combination with an interested stockholder of the resident domestic corporation engaged in more than 2 years after the date that the person first became an interested stockholder is permissible if the requirements of NRS 78.441, 78.443 and 78.444 are satisfied and the aggregate amount of the cash and the market value, as of the date of consummation, of consideration other than cash to be received per share by all of the holders of outstanding shares of any class or series of shares, other than common shares, of the resident domestic corporation not beneficially owned by the interested stockholder immediately before that date is at least equal to the highest of the following, whether or not the interested stockholder has previously acquired any shares of the class or series of shares:

1. The highest price per share paid by the interested stockholder, at a time when the interested stockholder was the beneficial owner, directly or indirectly, of 5 percent or more of the outstanding voting shares of the corporation, for any shares of that class or series of shares acquired by the interested stockholder within 2 years immediately before the date of announcement with respect to the combination or within 2 years immediately before, or in, the transaction in which the person became an interested stockholder, whichever is higher, plus, in either case, interest compounded annually from the earliest date on which the highest price per share was paid through the date of consummation at the rate for one-year obligations of the United States Treasury in effect on that earliest date, less the aggregate

amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per share of the class or series of shares since that earliest date.

2. The amount specified in the articles of incorporation of the resident domestic corporation, including in any certificate of designation for the class or series, to which the holders of shares of the class or series of shares are entitled upon the consummation of a transaction of a type encompassing the combination, determined as if the transaction had been consummated on the date of consummation with respect to the combination or on the date that the interested stockholder first became an interested stockholder, whichever is higher or, if the articles of incorporation, including any certificate of designation, do not so provide, the highest preferential amount per share to which the holders of shares of the class or series of shares are entitled in the event of any voluntary liquidation, dissolution or winding up of the resident domestic corporation, plus the aggregate amount of any dividends declared or due to which the holders are entitled before payment of the dividends on some other class or series of shares, unless the aggregate amount of the dividends is included in the preferential amount.

3. The market value per share of the class or series of shares on the date of announcement with respect to the combination or on the date that the person first became an interested stockholder, whichever is higher, plus interest compounded annually from that date through the date of consummation at the rate for one-year obligations of the United States Treasury in effect on that date, less the aggregate amount of any dividends paid in cash and the market value of any dividends paid other than in cash, per share of the class or series of shares since that date.

Sec. 19. NRS 78.444 is hereby amended to read as follows:

78.444 As an alternative to a combination satisfying the requirements of subsection 1 ~~[]~~ or 2 ~~[or 3]~~ of NRS 78.439, a combination with an interested stockholder of the resident domestic corporation engaged in more than 2 years after the date that the person first became an interested stockholder is permissible if the requirements of NRS 78.441, 78.442 and 78.443 are satisfied and, after the date that such person first became an interested stockholder and before the date of consummation with respect to the combination, the interested stockholder has not become the beneficial owner of any additional voting shares of the resident domestic corporation except:

1. As part of the transaction that resulted in the person becoming an interested stockholder;

2. By virtue of any transaction or series of transactions not constituting a combination;

3. Through a combination meeting the requirements of NRS 78.439; or

4. Through a purchase at any price that, if the price had been paid in an otherwise permissible combination whose date of announcement and date of consummation were the date of the purchase, would have satisfied the requirements of NRS 78.441, 78.442 and 78.443.

Sec. 20. NRS 78.725 is hereby amended to read as follows:

78.725 1. Any corporation organized and existing under the laws of this State on April 1, 1925, may reincorporate under this chapter, either under the same or a different name, by:

(a) Filing with the Secretary of State a certificate signed by its president and attested by its secretary and duly authorized by a meeting of the stockholders called for that purpose, setting forth the statements required in ~~an~~ the original ~~certificate~~ articles of incorporation by NRS 78.035; and

(b) Surrendering the existing charter or ~~certificate or~~ articles of incorporation of the corporation, and accepting the provisions of this chapter.

2. Upon the filing of the certificate, the corporation shall be deemed to be incorporated under this chapter and is entitled to and possesses all the privileges, franchises and powers as if originally incorporated under this chapter. All the properties, rights and privileges theretofore belonging to the corporation, which were acquired by gift, grant, conveyance, assignment or otherwise, are hereby ratified, approved and confirmed and assured to the corporation with like effect and to all intents and purposes as if the same had been originally acquired through incorporation under this chapter.

3. Any corporation reincorporating under this chapter is subject to all the contracts, duties and obligations theretofore resting upon the corporation whose charter or ~~certificate or~~ articles of incorporation ~~is~~ are thus surrendered or to which the corporation is then in any way liable.

Sec. 21. NRS 78A.030 is hereby amended to read as follows:

78A.030 1. Any corporation organized under chapter 78 of NRS may become a close corporation pursuant to this chapter by signing, filing and recording, in accordance with NRS 78.390, a certificate of amendment of the ~~certificate~~ articles of incorporation which must:

(a) Contain a statement that the corporation elects to become a close corporation; and

(b) Meet the requirements of paragraph (a) of subsection 2 of NRS 78A.020.

2. Except as otherwise provided in subsection 3, the amendment must be adopted in accordance with the requirements of NRS 78.380 or 78.390.

3. If an amendment is adopted in accordance with the requirements of NRS 78.390, it must be approved by a vote of the holders of record of at least two-thirds of the shares of each class of stock of the corporation that are outstanding and entitled to vote, unless the articles of incorporation or bylaws require approval by a greater proportion.

Sec. 22. NRS 78A.040 is hereby amended to read as follows:

78A.040 1. The following statement must appear conspicuously on each share certificate issued by a close corporation:

The rights of stockholders in a close corporation may differ materially from the rights of shareholders in other corporations. Copies of the ~~certificate~~ articles of incorporation, bylaws, shareholders' agreements and other records, any of which may restrict transfers of stock and

affect voting and other rights, may be obtained by a shareholder on written request to the corporation.

2. A person claiming an interest in the shares of a close corporation that has complied with the requirement of subsection 1 is bound by the records referred to in the notice. A person claiming an interest in the shares of a close corporation that has not complied with the requirement of subsection 1 is bound by any record that he or she or a person through whom he or she claims has knowledge or notice.

3. A close corporation shall provide to any shareholder upon his or her written request and without charge, copies of the provisions that restrict transfer or affect voting or other rights of shareholders appearing in the articles of incorporation, bylaws, shareholders' agreements or voting trust agreements filed with the corporations.

4. Except as otherwise provided in subsection 5, the close corporation may refuse to register the transfer of stock into the name of a person to whom the stock of a close corporation has been transferred if the person has, or is presumed to have, notice that the transfer of the stock is in violation of a restriction on the transfer of stock. If the close corporation refuses to register the transfer of stock into the name of the transferee, the close corporation must notify the transferee of its refusal and state the reasons therefor.

5. Subsection 4 does not apply if:

(a) The transfer of stock, even if contrary to the restrictions on transfer of stock, has been consented to by all the stockholders of the close corporation; or

(b) The close corporation has amended its ~~{certificate}~~ *articles* of incorporation in accordance with NRS 78A.180.

6. The provisions of this section do not impair any rights of a transferee to:

(a) Rescind the transaction by which the transferee acquired the stock; or

(b) Recover under any applicable warranty.

7. As used in this section, "transfer" is not limited to a transfer for value.

Sec. 23. NRS 78A.050 is hereby amended to read as follows:

78A.050 1. An interest in the shares of a close corporation may not be transferred, except to the extent permitted by the ~~{certificate}~~ *articles* of incorporation, the bylaws, a shareholders' agreement or a voting trust agreement.

2. Except as otherwise provided by the ~~{certificate}~~ *articles* of incorporation, the provisions of this section do not apply to a transfer:

(a) To the corporation or to any other shareholder of the same class or series of shares.

(b) To heirs at law.

(c) That has been approved in writing by all of the holders of the shares of the corporation having voting rights.

(d) To an executor or administrator upon the death of a shareholder or to a trustee or receiver as a result of a bankruptcy, insolvency, dissolution or similar proceeding brought by or against a shareholder.

(e) By merger or share exchange or an exchange of existing shares for other shares of a different class or series in the corporation.

(f) By a pledge as collateral for a loan that does not grant the pledgee any voting rights possessed by the pledgor.

(g) Made after the termination of the status of the corporation as a close corporation.

Sec. 24. NRS 78A.080 is hereby amended to read as follows:

78A.080 A written agreement among stockholders of a close corporation or any provision of the ~~{certificate}~~ *articles* of incorporation or of the bylaws of the corporation that relates to any phase of the affairs of the corporation, including, but not limited to, the management of its business, the declaration and payment of dividends or other division of profits, the election of directors or officers, the employment of stockholders by the corporation or the arbitration of disputes is not invalid on the ground that it is an attempt by the parties to the agreement or by the stockholders of the corporation to treat the corporation as if it were a partnership or to arrange relations among the stockholders or between the stockholders and the corporation in a manner that would be appropriate only among partners.

Sec. 25. NRS 78A.090 is hereby amended to read as follows:

78A.090 1. A close corporation may operate without a board of directors if the ~~{certificate}~~ *articles* of incorporation ~~{contains}~~ *contain* a statement to that effect.

2. An amendment to the ~~{certificate}~~ *articles* of incorporation eliminating a board of directors must be approved:

(a) By all the shareholders of the corporation, whether or not otherwise entitled to vote on amendments; or

(b) If no shares have been issued, by all subscribers for shares, if any, or if none, by the incorporators.

3. While a corporation is operating without a board of directors as authorized by subsection 1:

(a) All corporate powers must be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, the shareholders.

(b) Unless the articles of incorporation provide otherwise:

(1) Action requiring the approval of the board of directors or of both the board of directors and the shareholders is authorized if approved by the shareholders; and

(2) Action requiring a majority or greater percentage vote of the board of directors is authorized if approved by the majority or greater percentage of votes of the shareholders entitled to vote on the action.

(c) A requirement by a state or the United States that a record delivered for filing contain a statement that specified action has been taken by the

board of directors is satisfied by a statement that the corporation is a close corporation without a board of directors and that the action was approved by the shareholders.

(d) The shareholders by resolution may appoint one or more shareholders to sign records as designated directors.

4. An amendment to the articles of incorporation that deletes the provision which eliminates a board of directors must be approved by the holders of at least two-thirds of the votes of each class or series of shares of the corporation, voting as separate voting groups, whether or not otherwise entitled to vote on amendments. The amendment must specify the number, names and mailing addresses of the directors of the corporation or describe who will perform the duties of the board of directors.

Sec. 26. NRS 78A.140 is hereby amended to read as follows:

78A.140 1. Upon application of a stockholder, the court may appoint one or more persons to be custodians and, if the corporation is insolvent, to be receivers of any close corporation when:

(a) The business and affairs of the close corporation are managed by the stockholders who are so divided that the business of the corporation is suffering or is threatened with irreparable injury and any remedy with respect to such a deadlock provided in the ~~{certificate}~~ *articles* of incorporation or bylaws or in any written agreement of the stockholders has failed; or

(b) The petitioning stockholder has the right to the dissolution of the corporation under a provision of the ~~{certificate}~~ *articles* of incorporation permitted by NRS 78A.160.

2. If the court determines that it would be in the best interest of the corporation, the court may appoint a provisional director in lieu of appointing a custodian or receiver for a close corporation. Such an appointment does not preclude any subsequent order of the court appointing a custodian or receiver for the corporation.

Sec. 27. NRS 78A.150 is hereby amended to read as follows:

78A.150 1. Notwithstanding any contrary provision of the ~~{certificate}~~ *articles* of incorporation, the bylaws or an agreement of the stockholders, the court may appoint a provisional director for a close corporation if the shareholders or directors, if any, are so divided concerning the management of the business and affairs of the corporation that the votes required for action by the board of directors cannot be obtained, with the consequence that the business and affairs of the corporation cannot be conducted to the advantage of the stockholders generally.

2. An application for relief pursuant to this section must be filed:

(a) By at least one-half of the number of directors then in office;

(b) By the holders of at least one-third of all stock then entitled to elect directors; or

(c) If there is more than one class of stock then entitled to elect one or more directors, by the holders of two-thirds of the stock of each class.

↪ The ~~{certificate}~~ *articles* of incorporation of a close corporation may provide that a lesser proportion of the directors, the stockholders or a class of stockholders may apply for relief under this section.

3. A provisional director:

(a) Must be an impartial person who is not a stockholder or a creditor of the corporation or of any subsidiary or affiliate of the corporation and whose further qualifications, if any, may be determined by the court.

(b) Is not a custodian or receiver of the corporation and does not have the title and powers of a custodian or receiver appointed under NRS 78A.140.

(c) Has the rights and powers of an elected director of the corporation, including the right to notice of and to vote at meetings of directors, until such time as the provisional director may be removed by order of the court.

4. The compensation of a provisional director must be determined by agreement between the provisional director and the corporation subject to the approval of the court, which may fix the compensation in the absence of agreement or in the event of disagreement between the provisional director and the corporation.

Sec. 28. NRS 78A.160 is hereby amended to read as follows:

78A.160 1. The ~~{certificate}~~ *articles* of incorporation of any close corporation may include a provision granting to any stockholder or to the holder of any specified number or percentage of shares of any class of stock an option to have the corporation dissolved at will or upon the occurrence of any specified event or contingency. Whenever any option to dissolve is exercised, the stockholders who exercise the option shall give written notice thereof to all other stockholders. Thirty days after the notice is sent, the dissolution of the corporation must proceed as if the required number of stockholders having voting power consented in writing to dissolution of the corporation as provided by NRS 78.320.

2. If the ~~{certificate}~~ *articles* of incorporation as originally filed ~~{does}~~ *do* not contain a provision authorized by subsection 1, the ~~{certificate}~~ *articles* may be amended to include such a provision if adopted by the affirmative vote of the holders of all the outstanding stock, whether or not otherwise entitled to vote, unless the ~~{certificate}~~ *articles* of incorporation specifically ~~{authorizes}~~ *authorize* such an amendment by a vote which is not less than two-thirds of all the outstanding stock, whether or not otherwise entitled to vote.

3. Each stock certificate in any corporation whose ~~{certificate}~~ *articles* of incorporation ~~{authorizes}~~ *authorize* dissolution as permitted by this section must conspicuously note on the face of the certificate the existence of the provision or the provision is ineffective.

Sec. 29. NRS 78A.170 is hereby amended to read as follows:

78A.170 A close corporation is subject to the provisions of this chapter until:

1. The corporation files with the Secretary of State a certificate of amendment deleting from the ~~{certificate}~~ *articles* of incorporation the

provisions required or permitted by NRS 78A.020, to be stated in the ~~{certificate}~~ *articles* of incorporation; or

2. A provision or condition required or permitted by NRS 78A.020 to be stated in ~~{a certificate}~~ *the articles* of incorporation has been breached and the corporation or any stockholder has not acted pursuant to NRS 78A.190 to prevent the loss of status or remedy the breach.

Sec. 30. NRS 78A.180 is hereby amended to read as follows:

78A.180 1. A corporation may voluntarily terminate its status as a close corporation, and cease to be subject to the provisions of this chapter, by amending the ~~{certificate}~~ *articles* of incorporation to delete therefrom the additional provisions required or permitted by NRS 78A.020 to be stated in the ~~{certificate}~~ *articles* of incorporation of a close corporation. An amendment must be adopted and become effective in accordance with NRS 78.390, except that it must be approved by a vote of the holders of record of at least two-thirds of the voting shares of each class of stock of the corporation that are outstanding.

2. The ~~{certificate}~~ *articles* of incorporation of a close corporation may provide that on any amendment to terminate the status as a close corporation, a vote greater than two-thirds or a vote of all shares of any class may be required. If the ~~{certificate}~~ *articles* of incorporation ~~{contains}~~ *contain* such a provision, that provision may not be amended, repealed or modified by any vote less than that required to terminate the status of the corporation as a close corporation.

3. ~~{A certificate}~~ *An amendment* filed pursuant to this section is effective at the time of the filing of the ~~{certificate}~~ *amendment* with the Secretary of State or upon a later date and time as specified in the ~~{certificate,}~~ *amendment*, which date must not be more than 90 days after the date on which the ~~{certificate}~~ *amendment* is filed. If the ~~{certificate}~~ *amendment* specifies a later effective date but does not specify an effective time, the ~~{certificate}~~ *amendment* becomes effective at 12:01 a.m. in the Pacific time zone on the specified later date.

Sec. 31. NRS 78A.190 is hereby amended to read as follows:

78A.190 1. The status of a corporation as a close corporation terminates if one or more of the provisions or conditions of this chapter cease to exist or be fulfilled unless:

(a) Within 30 days after the occurrence of the event, or within 30 days after the event has been discovered by the corporation, whichever is later, the corporation files with the Secretary of State a signed certificate stating that a specified provision or condition included in the ~~{certificate}~~ *articles* of incorporation to qualify the corporation as a close corporation has ceased to be applicable and furnishes a copy of the certificate to each stockholder; and

(b) The corporation, concurrently with the filing of a certificate, takes such steps as are necessary to correct the situation that threatens the status as a close corporation, including the refusal to register the transfer of stock

which has been wrongfully transferred as provided by NRS 78A.050 or commencing a proceeding under subsection 2.

2. Upon the suit of the close corporation or any stockholder, the court has jurisdiction to:

(a) Issue all orders necessary to prevent the corporation from losing its status as a close corporation.

(b) Restore the status of the corporation as a close corporation by enjoining or setting aside any act or threatened act on the part of the corporation or a stockholder that would be inconsistent with any of the provisions or conditions required or permitted by this chapter to be stated in the ~~{certificate}~~ articles of incorporation of a close corporation, unless it is an act approved in accordance with NRS 78A.050.

(c) Enjoin or set aside any transfer or threatened transfer of stock of a close corporation that is contrary to the terms of the ~~{certificate}~~ articles of incorporation or of any permitted restriction on transfer.

(d) Enjoin any public offering or threatened public offering of stock of the close corporation.

Sec. 32. NRS 86.201 is hereby amended to read as follows:

86.201 1. A limited-liability company is considered legally organized pursuant to this chapter:

(a) At the time of the filing of the articles of organization with the Secretary of State ; ~~[- upon a later date and time as specified in the articles, which date must not be more than 90 days after the date on which the articles are filed or, if the articles specify a later effective date but do not specify an effective time, at 12:01 a.m. in the Pacific time zone on the specified later date, whichever is applicable;]~~ and

(b) Upon paying the required filing fees to the Secretary of State.

2. A limited-liability company must not transact business or incur indebtedness, except that which is incidental to its organization or to obtaining subscriptions for or payment of contributions, until the company is considered legally organized pursuant to subsection 1.

3. A limited-liability company is an entity distinct from its managers and members.

Sec. 33. NRS 86.286 is hereby amended to read as follows:

86.286 1. A limited-liability company may, but is not required to, adopt an operating agreement. An operating agreement may be adopted only by the unanimous vote or unanimous written consent of the members, which may be in any tangible or electronic format, or by the sole member. If any operating agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the operating agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law and any attempt to otherwise amend the operating agreement shall be deemed void and of no legal force or effect unless otherwise provided in the operating agreement. Unless otherwise provided in the operating agreement, amendments to the

agreement may be adopted only by the unanimous vote or unanimous written consent of the persons who are members at the time of amendment.

2. An operating agreement may be adopted before, after or at the time of the filing of the articles of organization and, whether entered into before, after or at the time of the filing, may become effective at the formation of the limited-liability company or at a later date specified in the operating agreement. If an operating agreement is adopted:

(a) Before the filing of the articles of organization or before the effective date of formation specified in the articles of organization, the operating agreement is not effective until the effective date of formation of the limited-liability company.

(b) After the filing of the articles of organization or after the effective date of formation specified in the articles of organization, the operating agreement binds the limited-liability company and may be enforced whether or not the limited-liability company assents to the operating agreement.

3. An operating agreement may provide that a certificate of limited-liability company interest issued by the limited-liability company may evidence a member's interest in a limited-liability company.

4. An operating agreement:

(a) May provide, but is not required to provide : ~~[to any person, including a person who is not a party to the operating agreement, to the extent set forth therein:]~~

(1) Rights to any person, including a person who is not a party to the operating agreement, to the extent set forth therein;

(2) For the admission of any person as a member of the company dependent upon any fact or event that may be ascertained outside the articles of organization or the operating agreement, if the manner in which the fact or event may operate on the determination of the person or the admission of the person as a member of the company is set forth in the articles of organization or the operating agreement;

(3) That the personal representative of the last remaining member is obligated to agree in writing to the admission of the personal representative, or its nominee or designee, as a member of the company effective upon the occurrence of the event that terminated the last remaining member's status as a member of the company;

(4) For the admission of any person as a member of the company upon or after the death, retirement, resignation, expulsion, bankruptcy, dissolution or dissociation of, or any other event affecting, a member or the last remaining member, or after there is no longer a member of the company; or

(5) Any other provision, not inconsistent with law or the articles of organization, which the members elect to set out in the operating agreement for the regulation of the internal affairs of the company.

(b) Must be interpreted and construed to give the maximum effect to the principle of freedom of contract and enforceability.

5. If, and to the extent that, a member or manager or other person has duties to a limited-liability company, to another member or manager, or to another person that is a party to or is otherwise bound by the operating agreement, such duties may be expanded, restricted or eliminated by provisions in the operating agreement, except that an operating agreement may not eliminate the implied contractual covenant of good faith and fair dealing.

6. Unless otherwise provided in an operating agreement, a member, manager or other person is not liable for breach of duties, if any, to a limited-liability company, to any of the members or managers or to another person that is a party to or otherwise bound by the operating agreement for conduct undertaken in the member's, manager's or other person's good faith reliance on the provisions of the operating agreement.

7. An operating agreement may provide for the limitation or elimination of any and all liabilities for breach of contract and breach of duties, if any, of a member, manager or other person to a limited-liability company, to any of the members or managers, or to another person that is a party to or is otherwise bound by the operating agreement. An operating agreement may not limit or eliminate liability for any conduct that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

8. The Secretary of State may make available a model operating agreement for use by and at the discretion of a limited-liability company according to such terms and limitations as established by the Secretary of State. The use of such an operating agreement does not create a presumption that the contents of the operating agreement are accurate or that the operating agreement is valid.

Sec. 34. NRS 87A.235 is hereby amended to read as follows:

87A.235 1. In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the Secretary of State for filing. The certificate must state:

- (a) The name of the limited partnership;
- (b) The information required pursuant to NRS 77.310;
- (c) The name and the street and mailing address of each general partner;
- (d) Any additional information required by chapter 92A of NRS; and
- (e) If the limited partnership is to be a restricted limited partnership, a statement to that effect.

2. A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in subsection 2 of NRS 87A.190 in a manner inconsistent with that section.

3. If there has been substantial compliance with subsection 1, a limited partnership is formed on ~~the later of~~ the filing of the certificate of limited partnership. ~~for a date specified in the certificate of limited partnership.~~

4. Subject to subsection 2, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed

certificate of withdrawal, certificate of cancellation or statement of change or filed articles of conversion or merger:

- (a) The partnership agreement prevails as to partners and transferees; and
- (b) The filed certificate of limited partnership, certificate of withdrawal, certificate of cancellation or statement of change or articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

Sec. 35. NRS 88.350 is hereby amended to read as follows:

88.350 1. In order to form a limited partnership, a certificate of limited partnership must be signed and filed in the Office of the Secretary of State. The certificate must set forth:

- (a) The name of the limited partnership;
- (b) The information required pursuant to NRS 77.310;
- (c) The name and business address of each organizer executing the certificate;
- (d) The name and business address of each initial general partner;
- (e) The latest date upon which the limited partnership is to dissolve;
- (f) If the limited partnership is to be a restricted limited partnership, a statement to that effect; and
- (g) Any other matters the organizers determine to include therein.

2. A limited partnership is formed at the time of the filing of the certificate of limited partnership in the Office of the Secretary of State ~~for at any later time specified in the certificate of limited partnership~~ if there has been substantial compliance with the requirements of this section.

Sec. 36. NRS 92A.180 is hereby amended to read as follows:

92A.180 1. A parent domestic corporation, whether or not for profit, parent domestic limited-liability company, unless otherwise provided in the articles of organization or operating agreement, or parent domestic limited partnership owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation entitled to vote on a merger, 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited-liability company then owned by each class of members entitled to vote on a merger or 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited partnership then owned by both the general partners and each class of limited partners entitled to vote on a merger may merge the subsidiary into itself without approval of the owners of the owner's interests of the parent domestic corporation, parent domestic limited-liability company or parent domestic limited partnership or the owners of the owner's interests of the subsidiary domestic corporation, subsidiary domestic limited-liability company or subsidiary domestic limited partnership.

2. A parent domestic corporation, whether or not for profit, parent domestic limited-liability company, unless otherwise provided in the articles of organization or operating agreement, or parent domestic limited partnership owning at least 90 percent of the outstanding shares of each class

of a subsidiary corporation entitled to vote on a merger, 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited-liability company then owned by each class of members entitled to vote on a merger, or 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited partnership then owned by both the general partners and each class of limited partners entitled to vote on a merger may merge with and into the subsidiary without approval of the owners of the owner's interests of the subsidiary domestic corporation, subsidiary domestic limited-liability company or subsidiary domestic limited partnership.

3. The board of directors of a parent corporation, the managers of a parent limited-liability company with managers unless otherwise provided in the operating agreement, all members of a parent limited-liability company without managers unless otherwise provided in the operating agreement, or all general partners of a parent limited partnership shall adopt a plan of merger that sets forth:

(a) The names of the parent and subsidiary; and

(b) The manner and basis of converting the owner's interests of the disappearing entity into the owner's interests, obligations or other securities of the surviving or any other entity or into cash or other property in whole or in part.

4. The ~~parent~~ *surviving entity* shall mail a copy or summary of the plan of merger to each owner of the subsidiary who does not waive the mailing requirement in writing.

5. Articles of merger under this section may not contain amendments to the constituent documents of the surviving entity except that the name of the surviving entity may be changed.

6. The articles of incorporation of a domestic corporation, the articles of organization of a domestic limited-liability company, the certificate of limited partnership of a domestic limited partnership or the certificate of trust of a domestic business trust may forbid that entity from entering into a merger pursuant to this section.

Sec. 37. NRS 92A.250 is hereby amended to read as follows:

92A.250 1. When a merger takes effect:

(a) Every other entity that is a constituent entity merges into the surviving entity and the separate existence of every entity except the surviving entity ceases;

(b) The title to all real estate and other property owned by each merging constituent entity is vested in the surviving entity without reversion or impairment;

(c) *An owner of a constituent entity remains liable for all the obligations of such constituent entity existing at the time of the merger to the extent the owner was liable before the merger;*

(d) The surviving entity has all of the liabilities of each other constituent entity;

~~[(d) incurred after the time of the merger;]~~

(e) A proceeding pending against any constituent entity may be continued as if the merger had not occurred or the surviving entity may be substituted in the proceeding for the entity whose existence has ceased;

~~[(e)]~~ (f) The articles of incorporation, articles of organization, certificate of limited partnership or certificate of trust of the surviving entity are amended to the extent provided in the plan of merger; and

~~[(f)]~~ (g) The owner's interests of each constituent entity that are to be converted into owner's interests, obligations or other securities of the surviving or any other entity or into cash or other property are converted, and the former holders of the owner's interests are entitled only to the rights provided in the articles of merger or any created pursuant to NRS 92A.300 to 92A.500, inclusive.

2. When an exchange takes effect, the owner's interests of each acquired entity are exchanged as provided in the plan, and the former holders of the owner's interests are entitled only to the rights provided in the articles of exchange or any rights created pursuant to NRS 92A.300 to 92A.500, inclusive.

3. When a conversion takes effect:

(a) The constituent entity is converted into the resulting entity and is governed by and subject to the law of the jurisdiction of the resulting entity;

(b) The conversion is a continuation of the existence of the constituent entity;

(c) The title to all real estate and other property owned by the constituent entity is vested in the resulting entity without reversion or impairment;

(d) The resulting entity has all the liabilities of the constituent entity;

(e) A proceeding pending against the constituent entity may be continued as if the conversion had not occurred or the resulting entity may be substituted in the proceeding for the constituent entity;

(f) The owner's interests of the constituent entity that are to be converted into the owner's interests of the resulting entity are converted;

(g) An owner of the resulting entity remains liable for all the obligations of the constituent entity *existing at the time of the conversion* to the extent the owner was ~~personally~~ liable before the conversion; and

(h) The domestic constituent entity is not required to wind up its affairs, pay its liabilities, distribute its assets or dissolve, and the conversion is not deemed a dissolution of the domestic constituent entity.

Sec. 38. NRS 240.1655 is hereby amended to read as follows:

240.1655 1. A notarial act must be evidenced by a certificate that:

(a) Identifies the county, including, without limitation, Carson City, in this State in which the notarial act was performed in substantially the following form:

State of Nevada

County of

(b) Except as otherwise provided in this paragraph, includes the name of the person whose signature is being notarized. If the certificate is for certifying a copy of a document, the certificate must include the name of the person presenting the document. If the certificate is for the jurat of a subscribing witness, the certificate must include the name of the subscribing witness.

(c) Is signed and dated in ink by the notarial officer performing the notarial act. ~~[The]~~ *If the notarial officer is a notary public, the* certificate must be signed in the same manner as the signature of the notarial officer that is on file with the Secretary of State.

(d) If the notarial officer performing the notarial act is a notary public, includes the statement imprinted with the stamp of the notary public, as described in NRS 240.040.

(e) If the notarial officer performing the notarial act is not a notary public, includes the title of the office of the notarial officer and may include the official stamp or seal of that office. If the officer is a commissioned officer on active duty in the military service of the United States, the certificate must also include the officer's rank.

2. Except as otherwise provided in subsection 8, a notarial officer shall:

(a) In taking an acknowledgment, determine, from personal knowledge or satisfactory evidence, that the person making the acknowledgment is the person whose signature is on the document. The person who signed the document shall present the document to the notarial officer in person.

(b) In administering an oath or affirmation, determine, from personal knowledge or satisfactory evidence, the identity of the person taking the oath or affirmation.

(c) In certifying a copy of a document, photocopy the entire document and certify that the photocopy is a true and correct copy of the document that was presented to the notarial officer.

(d) In making or noting a protest of a negotiable instrument, verify compliance with the provisions of subsection 2 of NRS 104.3505.

(e) In executing a jurat, administer an oath or affirmation to the affiant and determine, from personal knowledge or satisfactory evidence, that the affiant is the person named in the document. The affiant shall sign the document in the presence of the notarial officer. The notarial officer shall administer the oath or affirmation required pursuant to this paragraph in substantially the following form:

Do you (solemnly swear, or affirm) that the statements in this document are true, (so help you God)?

3. A certificate of a notarial act is sufficient if it meets the requirements of subsections 1 and 2 and it:

(a) Is in the short form set forth in NRS 240.166 to 240.169, inclusive;

(b) Is in a form otherwise prescribed by the law of this State;

(c) Is in a form prescribed by the laws or regulations applicable in the place in which the notarial act was performed; or

(d) Sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

4. For the purposes of paragraphs (a), (b) and (e) of subsection 2, a notarial officer has satisfactory evidence that a person is the person whose signature is on a document if the person:

- (a) Is personally known to the notarial officer;
- (b) Is identified upon the oath or affirmation of a credible witness who personally appears before the notarial officer;
- (c) Is identified on the basis of an identifying document which contains a signature and a photograph;
- (d) Is identified on the basis of a consular identification card;
- (e) Is identified upon an oath or affirmation of a subscribing witness who is personally known to the notarial officer; or
- (f) In the case of a person who is 65 years of age or older and cannot satisfy the requirements of paragraphs (a) to (e), inclusive, is identified upon the basis of an identification card issued by a governmental agency or a senior citizen center.

5. An oath or affirmation administered pursuant to paragraph (b) of subsection 4 must be in substantially the following form:

Do you (solemnly swear, or affirm) that you personally know
.....(name of person who signed the document)....., (so help
you God)?

6. A notarial officer shall not affix his or her signature over printed material.

7. By executing a certificate of a notarial act, the notarial officer certifies that the notarial officer has complied with all the requirements of this section.

8. If a person is physically unable to sign a document that is presented to a notarial officer pursuant to this section, the person may direct a person other than the notarial officer to sign the person's name on the document. The notarial officer shall insert "Signature affixed by (insert name of other person) at the direction of (insert name of person)" or words of similar import.

9. As used in this section, unless the context otherwise requires, "consular identification card" means an identification card issued by a consulate of a foreign government, which consulate is located within the State of Nevada.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 347 to Senate Bill No. 446 makes minor technical corrections to the bill and bill digest requested by the sponsor addressing ratification of certain corporate acts and certificates of designation regarding stocks that must be filed with the Secretary of State.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 457.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 414.

SUMMARY—Revises provisions relating to the Super Speed Ground Transportation System. (BDR 58-1106)

AN ACT relating to trains; revising provisions relating to the Super Speed Ground Transportation System to provide for the Nevada High-Speed Rail System; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the California-Nevada Super Speed Ground Transportation Commission, charged with pursuing the development of a Super Speed Ground Transportation System connecting southern California with southern Nevada. (NRS 705.4291, 705.4293) This bill removes the references to California's participation on the Commission and reorganizes the System under the State of Nevada. Section 3 of this bill creates the Nevada High-Speed Rail Authority, and requires that the members of the Authority be appointed by the Governor. Three of the five members of the Authority must be residents of a county whose population is 700,000 or more (currently only Clark County). Section 4 of this bill charges the Authority with pursuing the implementation of the Nevada High-Speed Rail System connecting southern California with southern Nevada. Section 5 of this bill requires the Authority to select a ~~franchise~~ franchisee to construct and operate the High-Speed Rail System. Section 5 also provides the criteria that the Authority must use to select a ~~franchise~~ franchisee and requires the Authority and the franchisee selected by the Authority to perform various tasks related to the planning and development of the System. Section 6 of this bill allows the Authority to incorporate, and section 7 of this bill authorizes the Authority to issue bonds, notes, obligations or other evidences of borrowing to finance construction of the System. Section 8 of this bill requires the Governor to issue a proclamation declaring the completion of the System. Sections 11-13 and 16 of this bill provide that the provisions of law relating to the System and the Authority expire by limitation upon the proclamation of the Governor that the System has been completed. Section 14 of this bill provides for staggered initial terms for the members of the Authority, and provides for the transfer to the Authority of any rights, obligations and property of the California-Nevada Super Speed Ground Transportation Commission. Section 15 of this bill requires the Authority to select a ~~franchise~~ franchisee to construct and operate the High-Speed Rail System on or before October 1, 2015.

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

Section 1. NRS 705.4291 is hereby amended to read as follows:

705.4291 The Legislature finds and declares that:

1. Passage of NRS 705.4291 to 705.4296, inclusive, is a declaration of legislative intent that the ~~{States of California and}~~ *State of Nevada* ~~{jointly consider and, if justified,}~~ pursue the ~~{development}~~ *implementation* of a ~~{Super Speed Ground Transportation}~~ *High-Speed Rail* System connecting southern California with southern Nevada.

2. The System will:

(a) Provide economic benefits to both southern California and southern Nevada.

(b) Reduce reliance on gasoline- and diesel-fueled engines and encourage the use of alternative energy sources.

(c) Reduce congestion on Interstate Highway No. 15 between southern California and Las Vegas.

(d) Provide a working example for a transportation system that could play an essential role in the development of future commuter *and high-speed rail* service in the Los Angeles Basin and the Las Vegas Valley.

(e) Provide quick and convenient transportation service for residents and visitors in southern California and southern Nevada.

Sec. 2. NRS 705.4292 is hereby amended to read as follows:

705.4292 As used in NRS 705.4291 to 705.4296, inclusive, unless the context otherwise requires:

1. ~~{"Commission" means the California-Nevada Super Speed Ground Transportation Commission.}~~ *"Authority" means the Nevada High-Speed Rail Authority created by NRS 705.4293.*

2. *"High-Speed Rail System" means a high-speed passenger rail system that:*

(a) Is capable of sustained speeds of at least 150 miles per hour or the speed established by the United States Department of Transportation and the Federal Railroad Administration's plans and policies for high-speed rail express services;

(b) Carries primarily passengers between southern Nevada and southern California;

(c) Operates on dedicated and exclusive standard gauge tracks for the purpose of high-speed rail service;

(d) Allows for interoperability with existing and planned rail systems; and

(e) Is certified or authorized by the Surface Transportation Board of the United States Department of Transportation as an interstate passenger railroad to construct and operate its route between southern Nevada and southern California.

3. "Southern California" means the counties of Kern, Los Angeles, Orange, Riverside, ~~and~~ San Bernardino, ~~and~~

~~3. "Super Speed Ground Transportation System" means a system that:~~

~~(a) Is capable of sustained speeds of at least 240 miles per hour;~~

~~(b) Uses magnetic levitation technology;~~

~~(c) Carries primarily passengers; and~~

~~(d) Operates on a grade-separated, dedicated guideway.} and San Diego.~~

Sec. 3. NRS 705.4293 is hereby amended to read as follows:

705.4293 1. There is hereby created the ~~{California Nevada Super Speed Ground Transportation Commission}~~ *Nevada High-Speed Rail Authority* as a separate legal entity. The governing body of the ~~{Commission}~~ *Authority* consists of ~~{~~:

~~—(a) The members from California appointed pursuant to the law of California and the bylaws of the Commission.~~

~~—(b) The same number of members from Nevada as are from California,~~ five members appointed by the Governor. ~~{of Nevada.}~~ *The members must be residents of the State of Nevada and must be appointed based upon their knowledge, expertise or experience in the areas of rail transportation and high-speed rail services. Three of the members must be residents of a county whose population is 700,000 or more.*

2. ~~{The}~~ *After their initial terms, the members {from Nevada} serve for terms of 4 years and may be reappointed at the pleasure of the Governor.*

3. The ~~{Commission}~~ *Authority* shall elect one of its members as Chair.

4. *The members of the Authority serve without compensation but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the official business of the Authority.*

Sec. 4. NRS 705.42935 is hereby amended to read as follows:

705.42935 The ~~{Commission}~~ *Authority* is hereby designated as an agency of the State of Nevada for the purposes of carrying out the provisions of NRS 705.4291 to 705.4296, inclusive.

Sec. 5. NRS 705.4294 is hereby amended to read as follows:

705.4294 1. The ~~{Commission may}~~:

~~—(a) Subject}~~ *Authority shall, subject to the provisions of subsection 2, {secure a right of way and award} select a {franchise} franchisee for the construction and operation of a {Super Speed Ground Transportation} High-Speed Rail System principally following the route of Interstate Highway No. 15 between Las Vegas, Nevada, and a point in southern California.*

~~{(b)}~~ 2. *The Authority shall select a {franchise} franchisee as required by subsection 1 based on criteria which must include, without limitation:*

(a) The extent to which environmental studies have been completed ~~{,}~~ by or on behalf of a potential franchisee;

(b) ~~{The}~~ Confirmation by a potential franchisee of the level of private investment that has been made or committed ~~{,}~~ for the High-Speed Rail System;

(c) ~~{Construction}~~ A review of the readiness ~~{,}~~ of a potential franchisee for the High-Speed Rail System to engage in construction of that System; and

(d) Pending or completed permit applications to implement the High-Speed Rail System.

3. *A ~~{franchise}~~ franchisee selected pursuant to this section may, with the assistance of the Authority:*

(a) Acquire or gain control or use of land for rights-of-way, stations and ancillary uses through purchase, gift, lease, use permit or easement.

~~[(c)]~~ (b) Conduct engineering and other studies related to the selection and acquisition of rights-of-way, ~~[and the selection of a franchisee,]~~ including, but not limited to, environmental impact studies, socioeconomic impact studies and financial feasibility studies. All local, state and federal environmental requirements must be met by the ~~[Commission]~~.

~~—(d) Evaluate alternative technologies, systems and operators for a Super Speed Ground Transportation System, and select a franchisee to construct and operate the Super Speed Ground Transportation System between southern California and Las Vegas.~~

~~—(e) Establish criteria for the award of the franchise.~~

~~—(f) Authority of franchisee.~~

(c) Accept grants, gifts, fees and allocations from Nevada or its political subdivisions, the Federal Government, foreign governments and any private source.

~~[(g)]~~ (d) Issue debt, but this debt does not constitute an obligation of the State of ~~[California or the State of]~~ Nevada, or any of ~~[their]~~ its political subdivisions.

~~[(h)]~~ (e) Hire ~~[an Executive Officer, other]~~ such staff and any consultants as deemed appropriate.

~~[(i)]~~ Select the exact route and terminal sites.

~~—(j)]~~ (f) Obtain ~~[, or assist the selected franchisee in obtaining,]~~ all necessary permits and certificates from governmental entities in California and Nevada ~~[.~~

~~— 2. Before the:~~

~~—(a) Commission or a franchisee begins construction in Nevada; and~~

~~—(b) Receipt of any final certificates and permits necessary for the construction or use of a public right of way,~~

~~→ the route and terminals selected by the Commission must be approved by the appropriate local, regional and state governmental entities in Nevada which have jurisdiction over the route and terminals located in this state. As a condition of awarding a franchise, the Commission shall require the franchisee to comply with this subsection.~~

~~— 3. Before the:~~

~~—(a) Commission or a franchisee begins construction in California; and~~

~~—(b) Receipt of any final certificates and permits necessary for the construction or use of a public right of way,~~

~~→ the route and terminals selected by the Commission must be approved by the appropriate local, regional and state governmental entities in California which have jurisdiction over the route and terminals located in that state. As a condition of awarding a franchise, the Commission shall require the franchisee to comply with this subsection.] , recognizing the preemptive federal authority of the Surface Transportation Board of the United States Department of Transportation over interstate passenger railroads.~~

(g) *Negotiate, enter into and execute all necessary local, regional and state governmental agreements to allow for the construction and implementation of the High-Speed Rail System.*

4. *The franchisee selected pursuant to this section must coordinate the implementation of the High-Speed Rail System with all governmental entities that have jurisdiction over the High-Speed Rail System, including, without limitation, the relevant counties and the Department of Transportation.*

Sec. 6. NRS 705.4295 is hereby amended to read as follows:

705.4295 1. The ~~{Commission}~~ Authority may incorporate under the general incorporation laws of either this state or the State of California, whichever the ~~{Commission}~~ Authority determines to be in its best interests. Copies of its proceedings, records and acts, when authenticated, are admissible in evidence in all courts of either State and are prima facie evidence of the truth of all statements therein.

2. The members of the ~~{Commission}~~ Authority and its agents and employees are not liable for any damages that result from any act or omission in the performance of their duties or the exercise of their powers pursuant to NRS 705.4291 to 705.4296, inclusive.

Sec. 7. NRS 705.42955 is hereby amended to read as follows:

705.42955 1. The ~~{Commission}~~ Authority, or a corporation formed by the ~~{Commission}~~ Authority pursuant to the laws of this state or the State of California, as the ~~{Commission}~~ Authority deems appropriate, may issue bonds, notes, obligations or other evidences of borrowing to finance all or a part of the construction of all or a part of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System. For purposes of issuing bonds, notes, obligations or other evidences of borrowing pursuant to this section, the ~~{Commission}~~ Authority and any corporation formed by the ~~{Commission}~~ Authority are constituted authorities for the purposes of regulations enacted by the Internal Revenue Service pursuant to 26 U.S.C. §§ 103 and 141 to 150, inclusive.

2. Bonds, notes, obligations or other evidences of borrowing issued by the ~~{Commission}~~ Authority or any corporation formed by the ~~{Commission}~~ Authority which are issued to finance all or any part of the construction of all or a part of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System may be payable from and secured by:

(a) A pledge of property of the ~~{Commission}~~ Authority or a corporation formed by the ~~{Commission}~~ Authority pursuant to this section;

(b) A pledge of any revenue of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System, including revenue from fares, revenue from advertising and all other revenue of the System; and

(c) A pledge of any other money made available to the ~~{Commission}~~ Authority or a corporation formed by the ~~{Commission}~~ Authority pursuant to this section by:

(1) Grants from the Federal Government or any other federal funds as may be available to pay costs of the ~~{Super Speed Ground Transportation}~~ *High-Speed Rail* System or debt service on any borrowing;

(2) Any company, public or private; or

(3) Any local government or governmental entity in this state or in the State of California pursuant to an intergovernmental agreement or otherwise.

3. The ~~{Commission}~~ *Authority*, in coordination with the franchisee selected pursuant to NRS 705.4294, may enter into agreements with any person, local government or governmental entity for the provision of resources or assistance to the ~~{Commission}~~ *Authority* or a corporation formed by the ~~{Commission}~~ *Authority* concerning the financing of the ~~{Super Speed Ground Transportation}~~ *High-Speed Rail* System.

4. The ~~{Commission}~~ *Authority* or any corporation formed by the ~~{Commission}~~ *Authority* pursuant to this section may issue obligations to refund any obligations issued pursuant to the provisions of NRS 705.4291 to 705.4296, inclusive, for any purpose the ~~{Commission}~~ *Authority* determines to be sufficient.

5. Nothing in this section authorizes the ~~{Commission}~~ *Authority* or any corporation formed by the ~~{Commission}~~ *Authority* to obligate this state or the State of California or any political subdivision thereof unless such State or political subdivision has obligated itself to the ~~{Commission}~~ *Authority* or a corporation created by the ~~{Commission}~~ *Authority* through an intergovernmental agreement.

6. ~~{Unless a specific statute of this state or the State of California requires otherwise, upon dissolution of the Commission, all property of the Commission must be distributed between this state and the State of California in an equitable manner as agreed upon by the States.~~

~~—7.—~~ The creation, perfection, priority and enforcement of any lien on pledged revenue or other money established to secure any bond, note, obligation or other evidence of borrowing issued pursuant to this section, must be as specified in this section and in the instruments approved by the ~~{Commission}~~ *Authority* pertaining to that bond, note, obligation or other evidence of borrowing. It is the purpose of this section to provide expressly for the creation, perfection, priority and enforcement of a security interest created by the ~~{Commission}~~ *Authority* in pledged revenues or other money in connection with bonds, notes, obligations or other evidences of borrowing issued pursuant to this section, as provided for in paragraph (n) of subsection 4 of NRS 104.9109. Any lien on pledged revenue or other money created to secure any bond, note, obligation or other evidence of borrowing issued pursuant to this section has priority over any lien thereon created pursuant to the provisions of chapter 104 of NRS unless otherwise provided in the instrument creating the lien to secure such bond, note, obligation or other evidence of borrowing issued pursuant to the provisions of this section.

Sec. 8. NRS 705.4296 is hereby amended to read as follows:

705.4296 The Governor shall declare, by public proclamation on the date of completion of the ~~[Super-Speed Ground Transportation]~~ *High-Speed Rail System* connecting southern California with Southern Nevada, that the System has been completed.

Sec. 9. NRS 709.050 is hereby amended to read as follows:

709.050 1. The board of county commissioners may grant to any person, company, corporation or association the franchise, right and privilege to construct, install, operate and maintain street railways, electric light, heat and power lines, gas and water mains, telephone lines, and all necessary or proper appliances used in connection therewith or appurtenant thereto, in the streets, alleys, avenues and other places in any unincorporated town in the county, and along the public roads and highways of the county, when the applicant complies with the terms and provisions of NRS 709.050 to 709.170, inclusive.

2. The board of county commissioners shall not:

(a) Impose any terms or conditions on a franchise granted pursuant to subsection 1 for the provision of telecommunication service or interactive computer service other than terms or conditions concerning the placement and location of the telephone lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides telecommunication service or interactive computer service to obtain a franchise if it provides telecommunication service over the telephone lines owned by another company.

3. As used in NRS 709.050 to 709.170, inclusive:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § 230(f)(2), as that section existed on January 1, 2007.

(b) "Street railway" means:

(1) A system of public transportation operating over fixed rails on the surface of the ground; or

(2) An overhead or underground system, other than a monorail, used for public transportation.

➔ The term does not include a ~~[super-speed ground transportation system]~~ *High-Speed Rail System* as defined in NRS 705.4292.

(c) "Telecommunication service" has the meaning ascribed to it in NRS 704.028.

4. As used in this section, "monorail" has the meaning ascribed to it in NRS 705.650.

Sec. 10. NRS 709.290 is hereby amended to read as follows:

709.290 1. The county commissioners, town trustees, supervisors or other governing body directly entrusted with the management of affairs of any town or city in this State are authorized to sell to the highest responsible bidder any franchise for a street railway through and over any street or streets of such town, according to the provisions of NRS 709.310.

2. As used in NRS 709.290 to 709.360, inclusive, "street railway" means:

(a) A system of public transportation operating over fixed rails on the surface of the ground; or

(b) An overhead or underground system, other than a monorail, used for public transportation.

➡ The term does not include a ~~[Super Speed Ground Transportation]~~ *High-Speed Rail System* as defined in NRS 705.4292.

3. As used in this section, "monorail" has the meaning ascribed to it in NRS 705.650.

Sec. 11. Section 3.5 of chapter 88, Statutes of Nevada 2001, as added by section 7 of chapter 2, Statutes of Nevada 2003, at page 6, is hereby amended to read as follows:

Sec. 3.5. NRS 705.4291, 705.4292, 705.4293, 705.4294, 705.4295 and 705.4296 expire by limitation:

1. One year after the date on which the Governor declares by public proclamation that the ~~[super speed ground transportation system]~~ *High-Speed Rail System* connecting southern California with southern Nevada has been completed; or

2. On the date all borrowing made pursuant to section 1 of this act is retired,

➡ whichever is later.

Sec. 12. Section 4 of chapter 88, Statutes of Nevada 2001, at page 560, is hereby amended to read as follows:

Sec. 4. 1. This act becomes effective on July 1, 2001.

2. Sections 1 and 2 of this act expire by limitation:

(a) One year after the date on which the Governor declares by public proclamation that the ~~[super speed ground transportation system]~~ *High-Speed Rail System* connecting southern California with southern Nevada has been completed; or

(b) On the date all borrowing made pursuant to section 1 of this act is retired,

➡ whichever is later.

Sec. 13. Section 5 of chapter 209, Statutes of Nevada 2003, at page 1173, is hereby amended to read as follows:

Sec. 5. 1. This act becomes effective on July 1, 2003.

2. Sections 1 to 4, inclusive, of this act expire by limitation:

(a) One year after the date on which the Governor declares by public proclamation that the ~~[Super Speed Ground Transportation]~~ *High-Speed Rail System* connecting southern California with southern Nevada has been completed; or

(b) On the date all borrowing made pursuant to NRS 705.42955 is retired,

➡ whichever is later.

Sec. 14. On the effective date of this act:

1. The rights, obligations and property of the State of Nevada in the California-Nevada Super Speed Ground Transportation Commission, if any,

become the rights, obligations and property of the Nevada High-Speed Rail Authority created by NRS 705.4293, as amended by section 3 of this act.

2. The terms of the Nevada members of the California-Nevada Super Speed Ground Transportation Commission expire and the initial appointments to the Nevada High-Speed Rail Authority must be made as follows:

(a) The Governor shall appoint one member to a term beginning on July 1, 2015, and ending on June 30, 2017;

(b) The Governor shall appoint two members to terms beginning on July 1, 2015, and ending on June 30, 2018; and

(c) The Governor shall appoint one member to a term beginning on July 1, 2015, and ending on June 30, 2019.

3. Any agreements entered into by the California-Nevada Super Speed Ground Transportation Commission terminate.

Sec. 15. The Nevada High-Speed Rail Authority shall, on or before October 1, 2015, select a ~~franchise~~ franchisee as required by NRS 705.4294, as amended by section 5 of this act.

Sec. 16. 1. This act becomes effective upon passage and approval.

2. Sections 1 to 10, inclusive, of this act expire by limitation:

(a) One year after the date on which the Governor declares by public proclamation that the High-Speed Rail System connecting southern California with southern Nevada has been completed; or

(b) On the date all borrowing made pursuant to NRS 705.42955 is retired, ➤ whichever is later.

Senator Hammond moved the adoption of the amendment.

Remarks by Senator Hammond.

Amendment No. 414 to Senate Bill No. 457 broadens the definition of southern California to include Kern and San Diego Counties. In addition, it requires at least three of the members appointed to the High Speed Rail Authority be residents of a county whose population is 700,000 or more. The amendment also replaces the references of franchise to franchisee, and transfers certain authority from the High Speed Rail Authority to the franchisee.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 464.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 348.

SUMMARY—Revises provisions concerning criminal penalties for ~~the consumption or possession of an alcoholic beverage by a person under 21 years of age.~~ certain acts involving alcohol. (BDR 15-651)

AN ACT relating to crimes; prohibiting the sale, distribution, purchase, possession or use of powdered alcohol; exempting a person under 21 years of age from criminal liability for the consumption or possession of alcohol when the person requests emergency medical assistance for himself, herself or another person in certain circumstances; exempting a person for whom

such assistance is requested from such criminal liability; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from selling, offering for sale, purchasing, possessing or using an alcohol vaporizing device. (NRS 202.067) Section 1 of this bill similarly prohibits a person from selling, offering for sale or otherwise distributing or purchasing, possessing or using powdered alcohol. A person who violates this provision is guilty of a misdemeanor.

Existing law makes it a misdemeanor for a person under 21 years of age to purchase, possess or consume alcohol in certain circumstances. (NRS 202.020) ~~[This]~~ Section 2 of this bill provides an exemption from criminal liability for consumption or possession of alcohol if a person under 21 years of age requests emergency medical assistance for himself, herself or another person in certain circumstances. Such an exemption only applies for a person who makes the request on behalf of another person if he or she: (1) reasonably believes that the person who may need such assistance is under 21 years of age; (2) reasonably believes the person needs such assistance; (3) is the first person to request emergency medical assistance for the person; (4) remains with the person requiring such assistance; and (5) cooperates with providers of emergency medical assistance, health care providers and law enforcement. A person for whom such a request for assistance is made is also exempt from those criminal penalties. ~~[This bill]~~ Section 2 also exempts a person making a request on his or her own behalf so long as the person reasonably believes he or she is in need of medical assistance because of alcohol consumption and cooperates with providers of emergency medical assistance, health care providers and law enforcement officers.

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

Section 1. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not sell, offer for sale or otherwise distribute or purchase, possess or use powdered alcohol.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. As used in this section, "powdered alcohol" means any powdered or crystalline substance containing any amount of alcohol that is used for direct consumption or for reconstitution.

~~[Section 1.]~~ Sec. 2. NRS 202.020 is hereby amended to read as follows:

202.020 1. ~~[Any]~~ Except as otherwise provided in this section, a person under 21 years of age who purchases any alcoholic beverage or any such person who consumes any alcoholic beverage in any saloon, resort or premises where spirituous, malt or fermented liquors or wines are sold is guilty of a misdemeanor.

2. ~~[Any]~~ Except as otherwise provided in this section, a person under 21 years of age who, for any reason, possesses any alcoholic beverage in public is guilty of a misdemeanor.

3. A person under 21 years of age is not subject to the criminal penalty set forth in subsection 1 for consuming an alcoholic beverage or subsection 2 if the person requests emergency medical assistance for another person whom he or she reasonably believes is under 21 years of age if the person making the request:

(a) Reasonably believes that the person who consumed the alcohol is in need of such assistance because of the alcohol consumption;

(b) Is the first person to request emergency medical assistance for the person;

(c) Remains with the person until informed that his or her presence is no longer necessary by the emergency medical personnel who respond to the request for assistance for the person; and

(d) Cooperates with any provider of emergency medical assistance, any other health care provider who assists the person who may be in need of emergency medical assistance because of alcohol consumption and any law enforcement officer.

4. A person under 21 years of age for whom another person requests emergency medical assistance pursuant to subsection 3 is not subject to the criminal penalty set forth in subsection 1 for consuming an alcoholic beverage or subsection 2.

5. A person under 21 years of age is not subject to the criminal penalty set forth in subsection 1 for consuming an alcoholic beverage or subsection 2 if the person:

(a) Requests emergency medical assistance because he or she reasonably believes that he or she is in need of medical assistance because of alcohol consumption; and

(b) Cooperates with any provider of emergency medical assistance, any other health care provider who provides assistance to him or her and any law enforcement officer.

6. This section does not preclude a local governmental entity from enacting by ordinance an additional or broader restriction ~~[-~~

~~—4.]~~, except that any such ordinance must not conflict with the provisions of subsection 3, 4 or 5 or create criminal liability for a person to whom an exemption set forth in subsection 3, 4 or 5 applies.

7. For the purposes of this section, possession "in public" includes possession:

(a) On any street or highway;

(b) In any place open to the public; and

(c) In any private business establishment which is in effect open to the public.

~~{§-}~~ 8. The term does not include:

(a) Possession for an established religious purpose;

(b) Possession in the presence of the person's parent, spouse or legal guardian who is 21 years of age or older;

(c) Possession in accordance with a prescription issued by a person statutorily authorized to issue prescriptions;

(d) Possession in private clubs or private establishments; or

(e) The selling, handling, serving or transporting of alcoholic beverages by a person in the course of his or her lawful employment by a licensed manufacturer, wholesaler or retailer of alcoholic beverages.

~~[Sec. 2.]~~ *Sec. 3.* The provisions of section 2 of this act apply to a person who has been charged but not convicted before the effective date of this act.

~~[Sec. 3.]~~ *Sec. 4.* This act becomes effective upon passage and approval.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment for Senate Bill No. 464 adds new language to the bill prohibiting the sale, purchase, possession or use of powdered alcohol and makes a violation of these provisions a misdemeanor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Joint Resolution No. 17.

Resolution read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 449.

SUMMARY—Proposes to amend the Nevada Constitution to expand the rights guaranteed to victims of crime. (BDR C-952)

SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to expand the rights guaranteed to victims of crime by adopting a victims' bill of rights.

Legislative Counsel's Digest:

Under the Nevada Constitution, the Legislature is required to provide by law for certain rights of the victims of crimes, in particular, the right to be informed of the status of criminal proceedings concerning those crimes, the right to be present at public hearings concerning those crimes and the right to be heard at all proceedings for the sentencing or release of persons convicted of those crimes. (Nev. Const. Art. 1, § 8)

This resolution proposes to amend the Nevada Constitution to eliminate the existing provisions of Article 1, section 8, concerning victims' rights and to add a new section that sets forth an expanded list of such rights in the form of a victims' bill of rights. The new section is modeled after the victims' bill of rights set forth in the California Constitution as it was amended in 2008 by what is commonly referred to as Marsy's Law. (Cal. Const. Art. 1, § 28)

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That a new section, designated Section 23, be added to Article 1 of the Nevada Constitution to read as follows:

Sec. 23. 1. Each person who is the victim of a crime is entitled to the following rights:

(a) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment and abuse, throughout the criminal or juvenile justice process.

(b) To be reasonably protected from the defendant and persons acting on behalf of the defendant.

(c) To have the safety of the victim and the victim's family considered as a factor in fixing the amount of bail and release conditions for the defendant.

(d) To prevent the disclosure of confidential information or records to the defendant ~~or the defendant's attorney, or any other person acting on behalf of the defendant,~~ which could be used to locate or harass the victim or the victim's family ~~for which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law.~~

(e) To refuse an interview ~~or deposition for discovery~~ request ~~by the defendant, the defendant's attorney or any other person acting on behalf of the defendant,~~ unless under court order or subpoena, and to set reasonable conditions on the conduct of any such interview to which the victim consents.

(f) To ~~reasonable notice of and to~~ reasonably confer with the prosecuting agency, upon request, regarding the ~~arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant and, upon request, to be notified of and informed before any pretrial disposition of the~~ case.

(g) To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other postconviction release proceedings, and to be present at all such proceedings.

(h) To be heard, upon request ~~or~~ and at the discretion of the court, at any proceeding, including any delinquency proceeding, involving a postarrest release decision, ~~plea~~ sentencing, postconviction release decision or any proceeding in which a right of the victim is at issue.

(i) To ~~a speedy trial and a prompt and final conclusion of the case and any related postjudgment proceedings.~~ the timely disposition of the case following the arrest of the defendant.

(j) To provide information to any public officer or employee conducting a presentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.

(k) ~~[To receive, upon request, the report of any presentence investigation when available to the defendant, except for those portions made confidential by law.]~~

~~—(l)~~ To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant and the release of or the escape by the defendant from custody.

~~[(m)]~~ (l) To full and timely restitution, [as provided by law.]

~~[(n)]~~ (m) To the prompt return of legal property when no longer needed as evidence.

~~[(o)]~~ (n) To be informed of all ~~[parole procedures,]~~ postconviction proceedings, to participate ~~fin the parole process, to]~~ and provide information to the parole authority to be considered before the parole of the offender and to be notified, upon request, of the parole or other release of the offender.

~~[(p)]~~ (o) To have the safety of the victim, the victim's family and the general public considered before any parole or other postjudgment release decision is made.

~~[(q)]~~ (p) To have all monetary payments, money and property collected from any person who has been ordered to make restitution be first applied to pay the amounts ordered as restitution to the victim.

(q) To be specifically informed of the rights enumerated in ~~[paragraphs (a) to (p), inclusive.]~~ this section, and to have information concerning those rights be made available to the general public.

2. A victim ~~[, the retained attorney of a victim, a lawful representative of the victim or the prosecuting attorney upon request of the victim may enforce]~~ has standing to assert the rights enumerated in [subsection 1] this section in any [trial or appellate] court with jurisdiction over the case, [as a matter of right.] The court shall ~~fact]~~ promptly rule on [such] a victim's request. A defendant does not have standing to assert the rights of his or her victim. This section does not alter the powers, duties or responsibilities of a prosecuting attorney. A victim does not have the status of a party in a criminal proceeding.

3. Except as otherwise provided in subsection 4, no person may maintain an action against this State or any public officer or employee for damages or injunctive, declaratory or other legal or equitable relief on behalf of a victim of a crime as a result of a violation of this section or any statute enacted by the Legislature pursuant thereto. No such violation authorizes setting aside a conviction ~~, [for sentence or continuing or postponing a criminal proceeding.]~~

4. A person may maintain an action to compel a public officer or employee to carry out any duty required by this section or any statute enacted by the Legislature pursuant thereto.

5. The granting of these rights to victims must not be construed to deny or disparage other rights possessed by victims. ~~[A court in its~~

~~discretion may extend the right to be heard at sentencing to any person harmed by the defendant.] A parole authority shall extend the right to be heard at a parole hearing to any person harmed by the offender.~~

~~6. [At the regular session of the Legislature immediately following the approval and ratification of this section by the people, the Legislature shall provide by law that:~~

~~(a) All persons who suffer losses as a result of criminal activity have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.~~

~~(b) Restitution must be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a victim suffers a loss.~~

~~(c) All monetary payments, money and property collected from any person who has been ordered to make restitution must be first applied to pay the amounts ordered as restitution to the victim.~~

~~7.] The Legislature shall by law provide any other measure necessary or useful to secure to victims of crime the benefit of the rights set forth in this section.~~

~~[8.] 7. As used in this section, "victim" means fa person who suffers direct or threatened physical, psychological or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term also includes, without limitation, the person's spouse, parents, children, siblings or guardian, and includes a lawful representative of a victim who is deceased, a minor or physically or psychologically incapacitated. The term does not include a person in custody for an offense, the accused or a person whom the court finds would not act in the best interests of a minor victim.] any person directly and proximately harmed by the commission of a criminal offense under any law of this State. If the victim is less than 18 years of age, incompetent, incapacitated or deceased, the term includes the legal guardian of the victim or a representative of the victim's estate, member of the victim's family or any other person who is appointed by the court to act on the victim's behalf, except that the court shall not appoint the defendant as such a person.~~

~~8. This section is not intended and shall not be interpreted to infringe upon a right guaranteed to the defendant by the United States Constitution or the Nevada Constitution.~~

And be it further

RESOLVED, That Section 8 of Article 1 of the Nevada Constitution be amended to read as follows:

Sec. 8. 1. No person shall be tried for a capital or other infamous crime (except in cases of impeachment, and in cases of the militia when in actual service and the land and naval forces in time of war, or which this State may keep, with the consent of Congress, in time of peace, and in cases of petit larceny, under the regulation of the

Legislature) except on presentment or indictment of the grand jury, or upon information duly filed by a district attorney, or Attorney General of the State, and in any trial, in any court whatever, the party accused shall be allowed to appear and defend in person, and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offense; nor shall he be compelled, in any criminal case, to be a witness against himself.

2. ~~{The Legislature shall provide by law for the rights of victims of crime, personally or through a representative, to be:~~

—(a) Informed, upon written request, of the status or disposition of a criminal proceeding at any stage of the proceeding;

—(b) Present at all public hearings involving the critical stages of a criminal proceeding; and

—(c) Heard at all proceedings for the sentencing or release of a convicted person after trial.

—3. Except as otherwise provided in subsection 4, no person may maintain an action against the State or any public officer or employee for damages or injunctive, declaratory or other legal or equitable relief on behalf of a victim of a crime as a result of a violation of any statute enacted by the Legislature pursuant to subsection 2. No such violation authorizes setting aside a conviction or sentence or continuing or postponing a criminal proceeding.

—4. A person may maintain an action to compel a public officer or employee to carry out any duty required by the Legislature pursuant to subsection 2.

—5.} No person shall be deprived of life, liberty, or property, without due process of law.

~~{6.}~~ 3. Private property shall not be taken for public use without just compensation having been first made, or secured, except in cases of war, riot, fire, or great public peril, in which case compensation shall be afterward made.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Joint Resolution No. 17 makes several revisions to section 1 of the resolution, which sets forth the "Victim's Bill of Rights" that is to be amended into section 23, Article 1 of the *Nevada Constitution*, replacing current constitutional language on the subject. These revisions are intended to bring the constitutional amendment into conformity with current Nevada statute and court procedure in the areas addressed by the resolution.

Amendment adopted.

Resolution ordered reprinted, engrossed and to third reading.

Senator Kieckhefer moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 7:29 p.m.

SENATE IN SESSION

At 7:34 p.m.

President Hutchison presiding.

Quorum present.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 14, 2015

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Senate Bill No. 211.

MARK KRMPOTIC

Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that the action whereby Senate Bill No. 443 was re-referred to the Committee on Finance, upon return from reprint, be rescinded.

Motion carried.

Senator Kieckhefer moved that Senate Bills Nos. 211, 220, 371, 422 be re-referred to the Committee on Finance, upon return from reprint.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 252.

Bill read third time.

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

Amendment No. 221.

SUMMARY—Revises provisions governing the state business license fee. (BDR 32-1185)

AN ACT relating to business; revising provisions governing the imposition, collection and enforcement of the state business license fee to establish a ~~quarterly~~ business license fee based on the Nevada gross revenue of a business; revising provisions relating to the issuance of state business licenses and transferring certain responsibilities from the Secretary of State to the Department of Taxation; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes an annual fee of \$200 for a state business license that must be paid to the Secretary of State. (NRS 76.100, 76.130) On July 1, 2015, this fee is scheduled to change to \$100. (Chapter 429, Statutes of Nevada 2009, as last amended by chapter 518, Statutes of Nevada 2013, at p. 3426)

Section 163 of this bill repeals the provisions of existing law governing the annual state business license fee, and section 19 of this bill instead requires a person who conducts a business in this State to pay a ~~quarterly~~ state business license fee that is based on the industry in which the business is

primarily engaged and the Nevada gross revenue of the business. Under sections 19 and 22 of this bill, a business that does not pay any wages may file a report and pay the state business license fee annually on a due date approved by the Department of Taxation. Section 3 of this bill sets forth the businesses that are required to pay the ~~[quarterly]~~ state business license fee and the businesses that are exempt from that requirement. In accordance with section 6 of this bill, the Nevada gross revenue of a business is determined by taking the amount of the gross revenue of the business calculated in accordance with section 5 of this bill, ~~[situsing the gross revenue to Nevada pursuant to section 21 of this bill and]~~ making certain subtractions under section 20 of this bill ~~[.]~~ and situsing the gross revenue of the business, as adjusted under section 20, to Nevada pursuant to section 21 of this bill. The amount of the ~~[quarterly]~~ state business license fee owed by a business is set forth in the tables enacted in sections 22-49 of this bill. Section 164 of this bill provides that the effective date of this bill is July 1, 2015.

Sections 1-62 of this bill provide for the administration, collection and enforcement of the ~~[quarterly]~~ state business license fee by the Department of Taxation. Section 51 of this bill: (1) authorizes the Department to revoke the state business license of a person who fails to pay the ~~[quarterly]~~ state business license fee; and (2) requires the Secretary of State to revoke the charter or authority to transact business in this State of a business entity whose state business license is revoked by the Department. Sections 51, 76, 77, 79, 81, 83, 85, 87, 89, 91, 93, 95, 97, 99, 101 and 103 of this bill prohibit the Department from issuing a new state business license, and prohibit the Secretary of State from reinstating a business entity's charter or authority to transact business in this State, unless the state business license fee is paid. Section 65 of this bill authorizes the Department to impose the penalties and interest applicable to other fees and taxes collected by the Department if a person who conducted a business fails to pay the state business license fee. However, under section 161 of this bill, no penalties or interest may be imposed for a failure to pay the ~~[quarterly]~~ state business license fee which occurs before September 1, 2016 ~~[.]~~ regardless of when the Department determines that the person failed to pay the fee, if the failure occurred despite the exercise of ordinary care and was not intentional or the result of willful neglect.

Sections 75, 78, 80, 82, 84, 86, 88, 90, 92, 94, 96, 98, 100 and 102 of this bill change references to the current state business license so that a business entity must file with its initial and annual list a declaration under penalty of perjury that it has complied with the provisions governing the ~~[quarterly]~~ state business license fee established by this bill.

Sections 104.3, 151.3, 158.4, 158.8, 159.1, 159.25, 159.3, 159.45, 159.5, 159.6, 159.75 and 159.9 of this bill authorize various licensing boards and other regulatory entities to take disciplinary action against certain business entities who fail to pay the state business license fee.

Sections 104.7, 151.5, 151.7, 158.2, 158.6, 159.15, 159.2, 159.35 and 159.4 of this bill authorize the Department of Taxation to obtain certain records and information from those regulatory entities to assist the Department in its administration of the state business license fee.

Sections 69-74 ~~[and 104-159]~~, 104, 105-151, 152-158 and 159 of this bill change references to the existing state business license issued by the Secretary of State to refer to the state business license issued by the Department of Taxation.

Sections 159.65, 159.7, 159.8, 159.85, 159.93 and 159.97 of this bill amend various provisions of the Nevada Insurance Code to specifically provide that entities regulated under that code are required to comply with the requirements of this bill regarding the state business license and the state business license fee.

The Preamble of Senate Bill No. 252 is hereby amended as follows:

WHEREAS, According to "Quality Counts 2015," a state-by-state report published by Education Week, Nevada's system of K-12 public education underperforms by almost every measure of adequacy and educational attainment; and

WHEREAS, By way of example, Nevada ranks last in the nation in the percentage of 3- and 4-year-old children who are enrolled in preschool; and

WHEREAS, Nevada ranks 45th in the nation in the percentage of students in grade 4 who demonstrate proficiency in reading, and 41st in the percentage of students in grade 8 who are proficient in mathematics; and

WHEREAS, Only 70 percent of high school students in Nevada graduate with a diploma, making Nevada's high school graduation rate the worst in the nation; and

WHEREAS, Based upon this data and information about family income, parental education and adult educational attainment, the Education Week report ranks Nevada last in the Chance-for-Success Index, which evaluates the role of education over the lifetime of each person; and

WHEREAS, Many students of color, students in poverty, students who are English language learners and students with a disability lag far behind in overall student achievement, requiring new forms of support to succeed; and

WHEREAS, The citizens of Nevada, and particularly the children of this State, deserve better; and

WHEREAS, The complexities of improving our failing school system require new approaches and a source of revenue that will grow with our economy over time; and

WHEREAS, Nevada has invested hundreds of millions of dollars in attracting new businesses in an effort to diversify and expand the State's economy; and

WHEREAS, The success of that effort and the future prosperity of Nevada are vitally dependent on investing in and improving our system of public education; now, therefore,

Section 7 of Senate Bill No. 252 is hereby amended as follows:

Sec. 7. "North American ~~[Industrial]~~ Industry Classification System" or "NAICS" means the 2012 North American ~~[Industrial]~~ Industry Classification System published by the Bureau of the Census of the United States Department of Commerce.

Section 8 of Senate Bill No. 252 is hereby amended as follows:

Sec. 8. 1. "Pass-through revenue" means:

(a) Revenue received by a business that is required by law or fiduciary duty to be distributed to another person or governmental entity;

(b) Taxes collected from a third party by a business and remitted by the business to a taxing authority;

(c) Reimbursement for advances made by a business on behalf of a customer or client, other than with respect to services rendered or with respect to purchases of goods by the business in carrying out the business in which it engages;

(d) Revenue received by a business that is mandated by contract or subcontract to be distributed to another only if the revenue constitutes:

(1) Sales commissions that are paid to a person who is not an employee of the business, including, without limitation, a split-fee real estate commission;

(2) The tax basis of securities underwritten by the business, as determined for the purposes of federal income taxation; ~~and~~ or

(3) Subcontracting payments under a contract or subcontract entered into by a business to provide services, labor or materials in connection with the actual or proposed design, construction, remodeling, remediation or repair of improvements on real property or the location of the boundaries of real property;

(e) Revenue received by a business that provides legal services only if the revenue received by the business is:

(1) Mandated by law, fiduciary duty or contract to be distributed to a claimant by the claimant's attorney or to another on behalf of a claimant by the claimant's attorney, including, without limitation, revenue received:

(I) For damages due to a client represented by the business;

(II) That are subject to a lien or other contractual obligation arising out of the representation provided by the business, other than fees owed to the business for the provision of legal services;

(III) That are subject to a subrogation interest or other third-party contractual claim; and

(IV) That are required to be paid to another attorney who provided legal services in a matter and who is not a member, partner, shareholder or employee of the business; and

(2) Reimbursement of the expenses incurred by the business in providing legal services to a claimant that are specific to the claimant's matter and that are not general operating expenses of the business; or

(f) Revenue received by a business that is part of an affiliated group from another member of the affiliated group.

2. As used in this section:

(a) "Affiliated group" means a group of two or more businesses, each of which is controlled by one or more common owners or by one or more members of the group.

(b) "Controlled by" means the direct or indirect ownership, control or possession of ~~the power to vote~~ 50 percent or more of ~~the outstanding voting securities of~~ a business.

(c) "Sales commission" means:

(1) Any form of compensation paid to a person for engaging in an act for which a license is required pursuant to chapter 645 of NRS; or

(2) Compensation paid to a sales representative by a principal in an amount that is based on the amount or level of certain orders for or sales on behalf of the principal and that the principal is required to report on Internal Revenue Service Form 1099-MISC, Miscellaneous Income.

Section 13 of Senate Bill No. 252 is hereby amended as follows:

Sec. 13. 1. For the purposes of this chapter, a person shall be deemed to be conducting a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to title 7 of NRS, 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; ~~for~~

(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 ~~for~~; or

(e) Has a sufficient nexus with this State to satisfy the requirements of the United States Constitution.

2. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

NEW section 13.5 of Senate Bill No. 252 is hereby added as follows:

Sec. 13.5. For the purposes of this chapter, if a person conducting a business in this State is conducting business in more than one business category set forth in sections 22 to 49, inclusive, of this act, the person shall be deemed to be primarily engaged in the business category in which the highest percentage of its Nevada gross revenue is generated.

Section 15 of Senate Bill No. 252 is hereby amended as follows:

Sec. 15. 1. Each person responsible for maintaining the records of a business shall:

(a) Keep such records as may be necessary to determine the amount of the state business license fee owed by the business pursuant to the provisions of this chapter;

(b) Preserve those records for 4 years or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; and

(c) Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.

2. The Department may by regulation specify the types of records which must be kept to determine the amount of the state business license fee owed by the business. The regulations adopted by the Department pursuant to this subsection must specify:

(a) The type of information that a person conducting a business in this State must keep in the normal course of the person's financial recordkeeping for the purpose of determining the amount of the state business license fee owed by the business; and

(b) The records that must be kept by a business that, pursuant to section 50 of this act, elects an accounting method for reporting its Nevada gross revenue and determining the amount of the state business license fee owed by the business that is different from the accounting method used by the business in the normal course of its financial recordkeeping.

Section 19 of Senate Bill No. 252 is hereby amended as follows:

Sec. 19. 1. In addition to obtaining a state business license pursuant to section 18 of this act, a person conducting a business in this State during a calendar quarter of a fiscal year shall pay a state business license fee in an amount determined pursuant to sections 22 to 49, inclusive, of this act. The fee is due and payable as provided in this section.

2. ~~Each~~ Except as otherwise provided in this subsection, each person conducting a business in this State during a calendar quarter of a fiscal year shall, on or before the 45th day immediately following the end of each calendar quarter of the fiscal year, file with the Department a report on a form prescribed by the Department. The Department may authorize a person conducting a business in this State that does not pay any wages during any calendar quarter, as described in subsection 1 of section 22 of this act, to file the report annually on a due date approved by the Department.

3. ~~The report required by this~~ subsection 2 must be:

(a) Signed pursuant to NRS 239.330 by the person required to file the return or by the person's authorized agent;

(b) State the gross revenue and the Nevada gross revenue of the business for the calendar quarter;

(c) Be accompanied by the state business license fee determined pursuant to sections 22 to 49, inclusive, of this act for the business category in which the business conducted by the person was primarily engaged during the calendar quarter; and

(d) Include such other information as is required by the Department.

~~3.~~ 4. For the purposes of determining the amount of the state business license fee due pursuant to sections 22 to 49, inclusive, of this act, the initial report filed with the Department pursuant to subsection 2 must designate the

business category in which the business conducted by the person is primarily engaged. A person conducting a business may not change the business category designated in the initial report filed for that business unless the person applies to the Department to change such designation and the Department determines that the business is no longer primarily engaged in the business category designated in the initial report.

~~4.1~~ 5. *Upon written application made before the date on which payment must be made, the Department may for good cause extend by not more than 30 days the time within which a business is required to pay the state business license fee. If the fee is paid during the period of extension, no penalty or late charge may be imposed for failure to pay at the time required, but the business shall pay interest at the rate of 0.75 percent per month from the date on which the amount would have been due without the extension until the date of payment, unless otherwise provided in NRS 360.232 or 360.320.*

~~5.1~~ 6. *If a business incorrectly reports its Nevada gross revenue for a calendar quarter, the business must file an amended return and, for the purposes of determining the amount of the state business license fee required to be paid, include the Nevada gross revenue in the calendar quarter in which the Nevada gross revenue should have been reported.*

~~6.1~~ 7. *The state business license fee required to be paid pursuant to this section is in addition to any fee for a license to conduct business that must be paid to the local jurisdiction in which the business is being conducted.*

Section 20 of Senate Bill No. 252 is hereby amended as follows:

Sec. 20. 1. *In calculating the Nevada gross revenue of a person from conducting a business in this State for the purposes of the state business license fee, the following amounts must be subtracted from the gross revenue of the business:*

(a) *Any gross revenue which this State is prohibited from taxing pursuant to the Constitution or laws of the United States or the Nevada Constitution.*

(b) *Any gross revenue of the business attributable to interest upon any bonds or securities of the Federal Government, the State of Nevada or a political subdivision of this State.*

(c) *If the person is conducting the business in this State and is required to pay a license fee pursuant to NRS 463.370, the amount of the gross revenue used to determine the amount of that fee.*

(d) *If the person is conducting the business in this State and is required to pay the tax on the net proceeds of minerals pursuant to the provisions of NRS 362.100 to 362.240, inclusive, the amount of the gross proceeds used to determine the amount of that tax.*

(e) *If the person is conducting the business in this State and is required to pay the tax imposed pursuant to chapter 680B of NRS ~~5, the~~ :*

(1) The amount of the total income derived from direct premiums written and all other considerations for insurance, bail or annuity contracts used to determine the amount of the tax imposed pursuant to chapter 680B of NRS ~~4,7~~ ; and

(2) Any amounts excluded from the calculation of the amount of that tax due pursuant to NRS 680B.037.

(f) If the person is conducting the business in this State and is required to pay the tax imposed pursuant to NRS 694C.450, the amount of the net direct premiums, as defined in that section, used to determine the amount of that tax.

(g) If the person is conducting the business in this State and is required to pay the tax imposed pursuant to NRS 685A.180, the amount of the premiums, as defined in that section, used to determine the amount of that tax.

(h) Except as provided by paragraph ~~[(g)]~~ (i), the total amount of payments received by a health care provider:

(1) From Medicaid, Medicare, the Children's Health Insurance Program, the Fund for Hospital Care to Indigent Persons created pursuant to NRS 428.175 or TRICARE;

(2) For professional services provided in relation to a workers' compensation claim; and

(3) For the actual cost to the health care provider for any uncompensated care provided by the health care provider, except that if the health care provider later receives payment for all or part of that care, the health care provider must include the amount of the payment in his or her gross revenue for the calendar quarter in which the payment is received.

~~[(g)]~~ (i) If the person is conducting the business in this State as a health care provider that is a health care institution, an amount equal to 50 percent of the amounts described in paragraph ~~[(h)]~~ (h) that are received by the health care institution.

~~[(h)]~~ (j) If the person is conducting the business in this State as an employee leasing company, the amount of any payments received from a client company for wages, payroll taxes on those wages, employee benefits and workers' compensation benefits for employees leased to the client company.

~~[(i)]~~ (k) The amount of any pass-through revenue of the business.

~~[(j)]~~ (l) The tax basis of securities and loans sold by the business, as determined for the purposes of federal income taxation.

~~[(k)]~~ (m) The amount of revenue received by the business that is directly derived from the operation of a facility that is:

(1) Located on property owned or leased by the Federal Government; and

(2) Managed or operated primarily to house members of the Armed Forces of the United States.

~~[(l)]~~ (n) Interest income other than interest on credit sales.

~~[(m)]~~ (o) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity.

~~[(n)]~~ (p) Receipts from the sale, exchange or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code,

26 U.S.C. § 1221 or 1231, without regard to the length of time the business held the asset.

~~[(e)]~~ (q) Receipts from a hedging transaction, as defined in section 1221 of the Internal Revenue Code, 26 U.S.C. § 1221, or a transaction accorded hedge accounting treatment under Statement No. 133 of the Financial Accounting Standards Board, Accounting for Derivative Instruments and Hedging Activities, to the extent the transaction is entered into primarily to protect a financial position, including, without limitation, managing the risk of exposure to foreign currency fluctuations that affect assets, liabilities, profits, losses, equity or investments in foreign operations, to interest rate fluctuations or to commodity price fluctuations. For the purposes of this paragraph, receipts from the actual transfer of title of real or tangible personal property to another business are not receipts from a hedging transaction or a transaction accorded hedge accounting treatment.

~~[(e)]~~ (r) Proceeds received by a business that are attributable to the repayment, maturity or redemption of the principal of a loan, bond, mutual fund, certificate of deposit or marketable instrument.

~~[(e)]~~ (s) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan.

~~[(e)]~~ (t) Proceeds received from the issuance of the business's own stock, options, warrants, puts or calls, from the sale of the business's treasury stock or as contributions to the capital of the business.

~~[(e)]~~ (u) Proceeds received on account of payments from insurance policies, except those proceeds received for the loss of business revenue.

~~[(e)]~~ (v) Damages received as a result of litigation in excess of amounts that, if received without litigation, would have been gross revenue pursuant to this section.

~~[(e)]~~ (w) Bad debts expensed for the purposes of federal income taxation.

~~[(e)]~~ (x) Returns and refunds to customers.

~~[(e)]~~ (y) The value of cash discounts allowed by the business and taken by a customer.

~~[(e)]~~ (z) The value of goods or services provided to a customer on a complimentary basis.

~~[(e)]~~ (aa) Amounts realized from the sale of an account receivable to the extent the receipts from the underlying transaction were included in the gross revenue of the business.

~~[(e)]~~ (bb) If the person is conducting the business in this State and owns an interest in a passive entity, the person's share of the net income of the passive entity, but only to the extent the net income of the passive entity was generated by the gross revenue of another person.

2. As used in this section:

(a) "Children's Health Insurance Program" means the program established pursuant to 42 U.S.C. §§ 1397aa to 1397jj, inclusive, to provide health insurance for uninsured children from low-income families in this State.

(b) "Client company" has the meaning ascribed to it in NRS 616B.670.

(c) "Employee leasing company" has the meaning ascribed to it in NRS 616B.670.

(d) "Health care institution" means:

(1) A medical facility as defined in NRS 449.0151; and

(2) A pharmacy as defined in NRS 639.012.

(e) "Health care provider" means a business that receives any payments listed in paragraph ~~[(f)]~~ (h) of subsection 1 as a provider of health care services, including, without limitation, mental health care services.

(f) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(g) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

Section 22 of Senate Bill No. 252 is hereby amended as follows:

Sec. 22. 1. ~~[(The)]~~ Except as otherwise provided in subsection 2, the state business license fee required to be paid by a person conducting a business in this State that did not pay any wages ~~in this State~~ during the quarter is \$100. If, during a calendar quarter, a person conducts a business that is a client company, as defined in NRS 616B.670, the person is deemed to have paid wages during that calendar quarter. For the purposes of this subsection, the term "wages" has the meaning ascribed to it in NRS 612.190.

2. The Department may authorize a person that does not pay any wages, as determined pursuant to subsection 1, to pay an annual state business license fee of \$400 on or before a due date approved by the Department.

3. Except as otherwise provided in ~~subsection 1~~ this section, the state business license fee required to be paid by a person conducting a business in this State is equal to the amount set forth in sections 23 to 48, inclusive, of this act for the business category and Nevada gross revenue of the business. If the business cannot be categorized in a business category set forth in sections 23 to 48, inclusive, of this act, the state business license fee for that business is equal to the amount set forth in section 49 of this act for the Nevada gross revenue of the business.

Section 33 of Senate Bill No. 252 is hereby amended as follows:

Sec. 33. 1. The other transportation business category (NAICS 483, 485, 486, 487, 488, 491 and 492) includes all businesses primarily engaged in:

(a) Water transportation, including, without limitation, the transportation of passengers and cargo using watercraft;

(b) Transit and ground passenger transportation, including, without limitation, charter buses, school buses, interurban bus transportation, ~~taxes~~ taxis and limousine services, street railroads, commuter rail and rapid transit;

(c) Pipeline transportation, including, without limitation, using transmission pipelines to transport products, such as crude oil, natural gas, refined petroleum products and slurry;

(d) Scenic and sightseeing transportation, including, without limitation, on land or the water, or in the air;

(e) Support activities for transportation, including, without limitation, air traffic control services, marine cargo handling, motor vehicle towing, railroad switching and terminals, and ship repair and maintenance not done in a shipyard, such as floating drydock services in a harbor;

(f) Postal services, including, without limitation, the activities of the United States Postal Service and its subcontractors operating under a universal service obligation to provide mail services, deliver letters and small parcels, and rural post offices on contract to the United States Postal Service; and

(g) Couriers and messengers, including, without limitation, the provision of intercity, local or international delivery of parcels and documents without operating under a universal service obligation.

2. To determine the amount of the ~~quarterly~~ state business license fee, a business included in this category must identify the fee on the following table that corresponds to the Nevada gross revenue of the business for the quarter for which the fee will be paid:

Nevada Gross Revenue:			Nevada Gross Revenue:			Nevada Gross Revenue:		
Greater Than:	Up to and	Fee:	Greater Than:	Up to and	Fee:	Greater Than:	Up to and	Fee:
	Including:			Including:			Including:	
\$0 -	31,250	\$100	\$676,438 -	777,904	\$1,026	\$16,837,571 -	19,363,206	\$25,533
\$31,250 -	35,938	\$100	\$777,904 -	894,590	\$1,180	\$19,363,206 -	22,267,688	\$29,363
\$35,938 -	41,329	\$100	\$894,590 -	1,028,779	\$1,357	\$22,267,688 -	25,607,841	\$33,767
\$41,329 -	47,528	\$100	\$1,028,779 -	1,183,096	\$1,560	\$25,607,841 -	29,449,017	\$38,832
\$47,528 -	54,658	\$100	\$1,183,096 -	1,360,560	\$1,794	\$29,449,017 -	33,866,370	\$44,657
\$54,658 -	62,857	\$100	\$1,360,560 -	1,564,645	\$2,063	\$33,866,370 -	38,946,326	\$51,356
\$62,857 -	72,286	\$100	\$1,564,645 -	1,799,341	\$2,373	\$38,946,326 -	44,788,275	\$59,059
\$72,286 -	83,129	\$110	\$1,799,341 -	2,069,243	\$2,729	\$44,788,275 -	51,506,517	\$67,918
\$83,129 -	95,599	\$126	\$2,069,243 -	2,379,630	\$3,138	\$51,506,517 -	59,232,495	\$78,106
\$95,599 -	109,939	\$145	\$2,379,630 -	2,736,574	\$3,609	\$59,232,495 -	68,117,369	\$89,822
\$109,939 -	126,430	\$167	\$2,736,574 -	3,147,061	\$4,150	\$68,117,369 -	78,334,975	\$103,295
\$126,430 -	145,394	\$192	\$3,147,061 -	3,619,120	\$4,772	\$78,334,975 -	90,085,221	\$118,789
\$145,394 -	167,204	\$220	\$3,619,120 -	4,161,989	\$5,488	\$90,085,221 -	103,598,005	\$136,607
\$167,204 -	192,285	\$254	\$4,161,989 -	4,786,287	\$6,311	\$103,598,005 -	119,137,706	\$157,099
\$192,285 -	221,128	\$292	\$4,786,287 -	5,504,230	\$7,258	\$119,137,706 -	137,008,362	\$180,663
\$221,128 -	254,297	\$335	\$5,504,230 -	6,329,865	\$8,347	\$137,008,362 -	157,559,616	\$207,763
\$254,297 -	292,442	\$386	\$6,329,865 -	7,279,345	\$9,599	\$157,559,616 -	181,193,559	\$238,927
\$292,442 -	336,308	\$443	\$7,279,345 -	8,371,247	\$11,039	\$181,193,559 -	208,372,593	\$274,766
\$336,308 -	386,755	\$510	\$8,371,247 -	9,626,935	\$12,694	\$208,372,593 -	239,628,482	\$315,981
\$386,755 -	444,768	\$586	\$9,626,935 -	11,070,975	\$14,599	\$239,628,482 -	275,572,755	\$363,378
\$444,768 -	511,484	\$674	\$11,070,975 -	12,731,622	\$16,788	\$275,572,755 -	And Above	\$417,885
\$511,484 -	588,207	\$776	\$12,731,622 -	14,641,365	\$19,307			
\$588,207 -	676,438	\$892	\$14,641,365 -	16,837,571	\$22,203			

Section 50 of Senate Bill No. 252 is hereby amended as follows:

Sec. 50. ~~For a business's method of accounting for gross revenue for a calendar quarter for the purposes of determining the amount of the state business license fee must be the same as the business's method of accounting for federal income tax purposes for the business's federal taxable year that includes that calendar quarter. If a business's method of accounting for federal income tax purposes changes, its method of accounting for gross~~

~~revenue pursuant to this chapter must be changed accordingly.] A person conducting a business in this State:~~

1. May use either the cash or accrual method of accounting for the purposes of reporting and determining the amount of the state business license fee owed by the person conducting the business.

2. May not change that method of accounting more often than once every 3 years unless the Department consents to the change. For the purposes of this subsection, a change in accounting method may not occur solely because the change results in a lower state business license fee owed by the person conducting the business.

Section 51 of Senate Bill No. 252 is hereby amended as follows:

Sec. 51. 1. If a person who holds a state business license fails to pay the state business license fee and any penalties and interest, the Department, after a hearing of which the person was given prior notice in writing of at least 10 days specifying the time and place of the hearing and requiring the person to show cause why his or her state business license should not be revoked, may revoke or suspend the state business license of the person.

2. If a person who holds a state business license is an entity organized or filed with the Secretary of State pursuant to title 7 of NRS, the written notice provided pursuant to subsection 1 must include a statement that the revocation or suspension of the person's state business license will result in the revocation of the entity's charter or authority to transact business in this State by the Secretary of State.

3. A notice provided pursuant to subsection 1 may be served personally or by mail in the manner prescribed for the service of a notice of deficiency determination.

4. If the license is ~~suspended~~ revoked or ~~revoked~~ suspended, the Department shall provide written notice of the action to:

- (a) The person who holds the state business license; and
- (b) If the person who holds the state business license is an entity organized pursuant to title 7 of NRS or an entity required to file with the Secretary of State, the Secretary of State.

~~3. 5.~~ If the Secretary of State receives a written notice pursuant to subsection ~~2. 4.~~ the Secretary of State must revoke the entity's charter or authority to transact business in this State.

~~4. 6.~~ The Department shall not issue a new license to the former holder of a revoked state business license, and the Secretary of State shall not reinstate or revive a charter or the right to transact business in this State, unless the former holder has paid the state business license fee and any penalties and interest.

NEW section 76.5 of Senate Bill No. 252 is hereby added as follows:

Sec. 76.5. NRS 78.245 is hereby amended to read as follows:

78.245 ~~[No]~~

1. Except as otherwise provided in subsection 2, no stocks, bonds or other securities issued by any corporation organized under this chapter, nor

the income or profits therefrom, nor the transfer thereof by assignment, descent, testamentary disposition or otherwise, shall be taxed by this State when such stocks, bonds or other securities shall be owned by nonresidents of this State or by foreign corporations.

2. The provisions of subsection 1 do not apply to the state business license fee imposed pursuant to sections 2 to 62, inclusive, of this act.

NEW section 104.3 of Senate Bill No. 252 is hereby added as follows:

Sec. 104.3. NRS 90.420 is hereby amended to read as follows:

90.420 1. The Administrator by order may deny, suspend or revoke any license, fine any licensed person, limit the activities governed by this chapter that an applicant or licensed person may perform in this State, bar an applicant or licensed person from association with a licensed broker-dealer or investment adviser or bar from employment with a licensed broker-dealer or investment adviser a person who is a partner, officer, director, sales representative, investment adviser or representative of an investment adviser, or a person occupying a similar status or performing a similar function for an applicant or licensed person, if the Administrator finds that the order is in the public interest and that the applicant or licensed person or, in the case of a broker-dealer or investment adviser, any partner, officer, director, sales representative, investment adviser, representative of an investment adviser, or person occupying a similar status or performing similar functions or any person directly or indirectly controlling the broker-dealer or investment adviser, or any transfer agent or any person directly or indirectly controlling the transfer agent:

(a) Has filed an application for licensing with the Administrator which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in a material respect or contained a statement that was, in light of the circumstances under which it was made, false or misleading with respect to a material fact;

(b) Has violated or failed to comply with a provision of this chapter as now or formerly in effect or a regulation or order adopted or issued under this chapter;

(c) Is the subject of an adjudication or determination after notice and opportunity for hearing, within the last 5 years by a securities agency or administrator of another state or a court of competent jurisdiction that the person has violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act or the securities law of any other state, but only if the acts constituting the violation of that state's law would constitute a violation of this chapter had the acts taken place in this State;

(d) Has been convicted of a felony or, within the previous 10 years has been convicted of a misdemeanor, which the Administrator finds:

(1) Involves the purchase or sale of a security, taking a false oath, making a false report, bribery, perjury, burglary, robbery or conspiracy to commit any of the foregoing offenses;

(2) Arises out of the conduct of business as a broker-dealer, investment adviser, depository institution, insurance company or fiduciary;

(3) Involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion or misappropriation of money or securities or conspiracy to commit any of the foregoing offenses; or

(4) Involves moral turpitude;

(e) Is or has been permanently or temporarily enjoined by any court of competent jurisdiction, unless the order has been vacated, from acting as an investment adviser, representative of an investment adviser, underwriter, broker-dealer or as an affiliated person or employee of an investment company, depository institution or insurance company or from engaging in or continuing any conduct or practice in connection with any of the foregoing activities or in connection with the purchase or sale of a security;

(f) Is or has been the subject of an order of the Administrator, unless the order has been vacated, denying, suspending or revoking the person's license as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent;

(g) Is or has been the subject of any of the following orders which were issued within the last 5 years, unless the order has been vacated:

(1) An order by the securities agency or administrator of another state, jurisdiction, Canadian province or territory, the Commodity Futures Trading Commission, or by the Securities and Exchange Commission or a comparable regulatory agency of another country, entered after notice and opportunity for hearing, denying, suspending or revoking the person's license as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent;

(2) A suspension or expulsion from membership in or association with a member of a self-regulatory organization;

(3) An order by a self-regulatory organization that prohibits the person from serving, indefinitely or for a specified period, as a principal or in a supervisory capacity within a business or organization which is a member of a self-regulatory organization;

(4) An order of the United States Postal Service relating to fraud;

(5) An order to cease and desist entered after notice and opportunity for hearing by the Administrator, the securities agency or administrator of another state, jurisdiction, Canadian province or territory, the Securities and Exchange Commission or a comparable regulatory agency of another country, or the Commodity Futures Trading Commission; or

(6) An order by the Commodity Futures Trading Commission denying, suspending or revoking registration under the Commodity Exchange Act;

(h) Has engaged in unethical or dishonest practices in the securities business;

(i) Is insolvent, either in the sense that liabilities exceed assets or in the sense that obligations cannot be met as they mature, but the Administrator

may not enter an order against a broker-dealer or investment adviser under this paragraph without a finding of insolvency as to the broker-dealer or investment adviser;

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~§~~ or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act:

(k) Is determined by the Administrator in compliance with NRS 90.430 not to be qualified on the basis of lack of training, experience and knowledge of the securities business; or

(l) Has failed reasonably to supervise a sales representative, employee or representative of an investment adviser.

2. The Administrator may not institute a proceeding on the basis of a fact or transaction known to the director when the license became effective unless the proceeding is instituted within 90 days after issuance of the license.

3. If the Administrator finds that an applicant or licensed person is no longer in existence or has ceased to do business as a broker-dealer, sales representative, investment adviser, representative of an investment adviser or transfer agent or is adjudicated mentally incompetent or subjected to the control of a committee, conservator or guardian or cannot be located after reasonable search, the Administrator may by order deny the application or revoke the license.

NEW section 104.7 of Senate Bill No. 252 is hereby added as follows:

Sec. 104.7. NRS 90.730 is hereby amended to read as follows:

90.730 1. Except as otherwise provided in subsection 2, information and records filed with or obtained by the Administrator are public information and are available for public examination.

2. Except as otherwise provided in subsections 3 and 4 and NRS 239.0115, the following information and records do not constitute public information under subsection 1 and are confidential:

(a) Information or records obtained by the Administrator in connection with an investigation concerning possible violations of this chapter; and

(b) Information or records filed with the Administrator in connection with a registration statement filed under this chapter or a report under NRS 90.390 which constitute trade secrets or commercial or financial information of a person for which that person is entitled to and has asserted a claim of privilege or confidentiality authorized by law.

3. The Administrator may submit any information or evidence obtained in connection with an investigation to the:

(a) Attorney General or appropriate district attorney for the purpose of prosecuting a criminal action under this chapter; and

(b) Department of Taxation for its use in carrying out the provisions of chapter 363A of NRS ~~§~~ or sections 2 to 62, inclusive, of this act.

4. The Administrator may disclose any information obtained in connection with an investigation pursuant to NRS 90.620 to the agencies and administrators specified in subsection 1 of NRS 90.740 but only if disclosure

is provided for the purpose of a civil, administrative or criminal investigation or proceeding, and the receiving agency or administrator represents in writing that under applicable law protections exist to preserve the integrity, confidentiality and security of the information.

5. This chapter does not create any privilege or diminish any privilege existing at common law, by statute, regulation or otherwise.

NEW section 151.3 of Senate Bill No. 252 is hereby added as follows:

Sec. 151.3. NRS 604A.820 is hereby amended to read as follows:

604A.820 1. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, the Commissioner shall give 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 either 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 of the Commissioner.

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, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any lawful regulation adopted pursuant thereto;

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS, ~~or~~ or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act;

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's 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 180 days without good cause therefor.

4. Any revocation or suspension applies only to the license granted to a person for the particular office for which grounds for revocation or suspension exist.

5. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

NEW section 151.5 of Senate Bill No. 252 is hereby added as follows:

Sec. 151.5. 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.

➡ 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 ~~or~~ or reports for the fee imposed pursuant to sections 2 to 62, inclusive, of this act. 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.

NEW section 151.7 of Senate Bill No. 252 is hereby added as follows:

Sec. 151.7. NRS 616B.012 is hereby amended to read as follows:

616B.012 1. Except as otherwise provided in this section and NRS 239.0115, 616B.015, 616B.021 and 616C.205, information obtained from any insurer, employer or employee is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's identity.

2. Any claimant or legal representative of the claimant is entitled to information from the records of the insurer, to the extent necessary for the proper presentation of a claim in any proceeding under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

3. The Division and Administrator are entitled to information from the records of the insurer which is necessary for the performance of their duties. The Administrator may, by regulation, prescribe the manner in which otherwise confidential information may be made available to:

(a) Any agency of this or any other state charged with the administration or enforcement of laws relating to industrial insurance, unemployment compensation, public assistance or labor law and industrial relations;

(b) Any state or local agency for the enforcement of child support;

- (c) The Internal Revenue Service of the Department of the Treasury;
- (d) The Department of Taxation; and
- (e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➡ Information obtained in connection with the administration of a program of industrial insurance may be made available to persons or agencies for purposes appropriate to the operation of a program of industrial insurance.

4. Upon written request made by a public officer of a local government, an insurer shall furnish from its records the name, address and place of employment of any person listed in its records. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to the local government. The insurer may charge a reasonable fee for the cost of providing the requested information.

5. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit to the Administrator a written request for the name, address and place of employment of any person listed in the records of an insurer. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of a request, the Administrator shall instruct the insurer to furnish the information requested. Upon receipt of such an instruction, the insurer shall furnish the information requested. The insurer may charge a reasonable fee to cover any related administrative expenses.

6. Upon request by the Department of Taxation, the Administrator shall provide:

- (a) Lists containing the names and addresses of employers; and
- (b) Other information concerning employers collected and maintained by the Administrator or the Division to carry out the purposes of chapters 616A to 616D, inclusive, or chapter 617 of NRS,

➡ to the Department for its use in verifying returns for the taxes imposed pursuant to chapters 363A and 363B of NRS ~~for~~ or reports for the fee imposed pursuant to sections 2 to 62, inclusive, of this act. The Administrator may charge a reasonable fee to cover any related administrative expenses.

7. Any person who, in violation of this section, discloses information obtained from files of claimants or policyholders or obtains a list of claimants or policyholders under chapters 616A to 616D, inclusive, or chapter 617 of NRS and uses or permits the use of the list for any political purposes, is guilty of a gross misdemeanor.

8. All letters, reports or communications of any kind, oral or written, from the insurer, or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

9. The provisions of this section do not prohibit the Administrator or the Division from disclosing any nonproprietary information relating to an uninsured employer or proof of industrial insurance.

NEW section 158.2 of Senate Bill No. 252 is hereby added as follows:

Sec. 158.2. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him or her by law, the Commissioner shall:

(a) Adopt regulations:

(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.

(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.

(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

(c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until after a period of time set by the Commissioner to determine any objections made by the mortgage broker.

(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the

general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

(f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS ~~or~~ or sections 2 to 62, inclusive, of this act.

(g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct examinations of a mortgage broker, as described in paragraph (d) of subsection 2, on a biennial instead of an annual basis if the mortgage broker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and

(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.

NEW section 158.4 of Senate Bill No. 252 is hereby added as follows:

Sec. 158.4. NRS 645B.670 is hereby amended to read as follows:

645B.670 1. Except as otherwise provided in NRS 645B.690:

(a) For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$25,000 if the applicant:

(1) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(2) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by the applicant, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(3) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his or her application for a license or during the course of the investigation of his or her application for a license.

(b) For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than \$25,000, may suspend, revoke or place conditions upon the mortgage broker's license, or may do both, if the mortgage broker, whether or not acting as such:

- (1) Is insolvent;
- (2) Is grossly negligent or incompetent in performing any act for which the mortgage broker is required to be licensed pursuant to the provisions of this chapter;
- (3) Does not conduct his or her business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;
- (4) Is in such financial condition that the mortgage broker cannot continue in business with safety to his or her customers;
- (5) Has made a material misrepresentation in connection with any transaction governed by this chapter;
- (6) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;
- (7) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by the mortgage broker, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;
- (8) Has failed to account to persons interested for all money received for a trust account;
- (9) Has refused to permit an examination by the Commissioner of his or her books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;
- (10) Has been convicted of, or entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering;
- (11) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;
- (12) Has failed to satisfy a claim made by a client which has been reduced to judgment;
- (13) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(14) Has commingled the money or other property of a client with his or her own or has converted the money or property of others to his or her own use;

(15) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(16) Has repeatedly violated the policies and procedures of the mortgage broker;

(17) Has failed to exercise reasonable supervision and control over the activities of a mortgage agent as required by NRS 645B.460;

(18) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(19) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(I) Had been convicted of, or entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering; or

(II) Had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license or registration revoked within the immediately preceding 10 years;

(20) Has violated NRS 645C.557;

(21) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS, ~~or~~ or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act; or

(22) Has, directly or indirectly, paid any commission, fees, points or any other compensation as remuneration for the services of a mortgage agent to a person other than a mortgage agent who:

(I) Is an employee of or associated with the mortgage broker; or

(II) If the mortgage agent is required to register with the Registry, is an employee of and whose sponsorship has been entered with the Registry by the mortgage broker as required by subsection 2 of NRS 645B.450.

(c) For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than \$25,000, may suspend, revoke or place conditions upon the mortgage agent's license, or may do both, if the mortgage agent, whether or not acting as such:

(1) Is grossly negligent or incompetent in performing any act for which the mortgage agent is required to be licensed pursuant to the provisions of this chapter;

(2) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(3) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(4) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by the mortgage agent, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(5) Has been convicted of, or entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering;

(6) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(7) Has commingled the money or other property of a client with his or her own or has converted the money or property of others to his or her own use;

(8) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(9) Has violated NRS 645C.557;

(10) Has repeatedly violated the policies and procedures of the mortgage broker with whom the mortgage agent is associated or by whom he or she is employed;

(11) Has, directly or indirectly, received any commission, fees, points or any other compensation as remuneration for his or her services as a mortgage agent:

(I) From a person other than the mortgage broker with whom the mortgage agent is associated or by whom he or she is employed; or

(II) If the mortgage agent is required to be registered with the Registry, from a person other than the mortgage broker by whom the mortgage agent is employed and on whose behalf sponsorship was entered as required by subsection 2 of NRS 645B.450; or

(12) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

2. This section does not prohibit the co-brokering of a commercial loan through the cooperation of two or more mortgage brokers so long as such a transaction is not inconsistent with any other provision of this chapter.

NEW section 158.6 of Senate Bill No. 252 is hereby added as follows:

Sec. 158.6. NRS 645E.300 is hereby amended to read as follows:

645E.300 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise

general supervision and control over mortgage bankers doing business in this State.

2. In addition to the other duties imposed upon him or her by law, the Commissioner shall:

(a) Adopt regulations establishing reasonable limitations and guidelines on loans made by a mortgage banker to a director, officer or employee of the mortgage banker.

(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan fees.

(c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage banker doing business in this State.

(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage bankers.

(f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS ~~or~~ or sections 2 to 62, inclusive, of this act.

(g) Conduct such examinations and investigations as are necessary to ensure that mortgage bankers meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage banker shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct biennial examinations of a mortgage banker instead of annual examinations, as described in paragraph (d) of subsection 2, if the mortgage banker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage banker; and

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division.

NEW section 158.8 of Senate Bill No. 252 is hereby added as follows:

Sec. 158.8. NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$25,000 if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by the applicant, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his or her application for a license or during the course of the investigation of his or her application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than \$25,000, may suspend, revoke or place conditions upon the license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which the licensee is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his or her business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that the licensee cannot continue in business with safety to his or her customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by the licensee, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his or her books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered or agreed to enter a plea of nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~4-3~~ or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) Has violated NRS 645C.557;

(p) Has commingled the money or other property of a client with his or her own or has converted the money or property of others to his or her own use; or

(q) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

NEW section 159.1 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.1. NRS 658.151 is hereby amended to read as follows:

658.151 1. The Commissioner may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the depository institution:

(a) Has violated its charter or any laws applicable thereto.

(b) Is conducting its business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact its business.

(d) Has an impairment of its stockholders' or members' equity.

(e) Has refused to pay its depositors in accordance with the terms on which such deposits were received, or has refused to pay its holders of certificates of indebtedness or investment in accordance with the terms upon which those certificates of indebtedness or investment were sold.

(f) Has become or is in imminent danger of becoming otherwise 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 made a voluntary assignment of its assets to trustees.

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~or~~ or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act.

2. The Commissioner also may forthwith take possession of the business and property of any depository institution to which this title or title 56 of NRS applies when it appears that the officers of the depository institution have refused to be examined upon oath regarding its affairs.

NEW section 159.15 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.15. NRS 665.133 is hereby amended to read as follows:

665.133 1. The records and information described in NRS 665.130 may be disclosed to:

(a) An agency of the Federal Government or of another state which regulates the financial institution which is the subject of the records or information;

(b) The Director of the Department of Business and Industry for the Director's confidential use;

(c) The State Board of Finance for its confidential use, if the report or other information is necessary for the State Board of Finance to perform its duties under this title;

(d) The Department of Taxation for its use in carrying out the provisions of chapter 363A of NRS ~~or~~ or sections 2 to 62, inclusive, of this act:

(e) An entity which insures or guarantees deposits;

(f) A public officer authorized to investigate criminal charges in connection with the affairs of the depository institution;

(g) A person preparing a proposal for merging with or acquiring an institution or holding company, but only after notice of the disclosure has been given to the institution or holding company;

(h) Any person to whom the subject of the report has authorized the disclosure;

(i) Any other person if the Commissioner determines, after notice and opportunity for hearing, that disclosure is in the public interest and outweighs any potential harm to the depository institution and its stockholders, members, depositors and creditors; and

(j) Any court in a proceeding initiated by the Commissioner concerning the financial institution.

2. All the reports made available pursuant to this section remain the property of the Division of Financial Institutions, and no person, agency or authority to whom the reports are made available, or any officer, director or employee thereof, may disclose any of the reports or any information contained therein, except in published statistical material that does not disclose the affairs of any natural person or corporation.

NEW section 159.2 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.2. NRS 669.275 is hereby amended to read as follows:

669.275 1. The Commissioner may require a licensee to provide an audited financial statement prepared by an independent certified public accountant licensed to do business in this State.

2. On the fourth Monday in January of each year, each licensee shall submit to the Commissioner a list of stockholders required to be maintained pursuant to paragraph (c) of subsection 1 of NRS 78.105 or the list of members 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. The list of members required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241 must include the percentage of each member's interest in the company, in addition to the requirements set forth in that section.

4. Except as otherwise provided in NRS 239.0115, any document submitted pursuant to this section is confidential. This subsection does not limit the examination of any document by the Department of Taxation if necessary to carry out the provisions of sections 2 to 62, inclusive, of this act. NEW section 159.25 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.25. NRS 669.2825 is hereby amended to read as follows:

669.2825 1. The Commissioner may institute disciplinary action or forthwith initiate proceedings to take possession of the business and property of any retail trust company when it appears that the retail trust company:

(a) Has violated its charter or any state or federal laws applicable to the business of a trust company.

(b) Is conducting its business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact its business.

(d) Has an impairment of its stockholders' equity.

(e) Has refused to pay or transfer account assets to its account holders as required by the terms of the accounts' governing instruments.

(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 made a voluntary assignment of its assets to receivers, conservators, trustees or creditors without complying with NRS 669.230.

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~or~~ or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act.

(k) Has materially and willfully breached its fiduciary duties to its customers.

(l) Has failed to properly disclose all fees, interest and other charges to its customers.

(m) Has willfully engaged in material conflicts of interest regarding a customer's account.

(n) Has made intentional material misrepresentations regarding any aspect of the services performed or proposed to be performed by the retail trust company.

2. The Commissioner also may forthwith initiate proceedings to take possession of the business and property of any trust company when it appears that the officers of the trust company have refused to be examined upon oath regarding its affairs.

NEW section 159.3 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.3. NRS 669.2847 is hereby amended to read as follows:

669.2847 1. If the Commissioner has reason to believe that grounds for 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 his or her 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, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any regulation adopted pursuant thereto or any lawful order of the Division of Financial Institutions;

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~[-]~~ or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act;

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's 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 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.

NEW section 159.35 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.35. NRS 669.285 is hereby amended to read as follows:

669.285 Except as otherwise provided in NRS 239.0115, any application and personal or financial records submitted by a person pursuant to the provisions of this chapter and any personal or financial records or other documents obtained by the Division of Financial Institutions pursuant to an examination or audit conducted by the Division are confidential and may be disclosed only to:

1. The Division, any authorized employee of the Division and any state or federal agency investigating the activities covered under the provisions of this chapter; ~~and~~

2. The Department of Taxation for its use in carrying out the provisions of sections 2 to 62, inclusive, of this act; and

3. Any person when the Commissioner, in the Commissioner's 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.

NEW section 159.4 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.4. NRS 669A.310 is hereby amended to read as follows:

669A.310 1. Except as otherwise provided in this section, any application and personal or financial records submitted by a person pursuant to the provisions of this chapter, any personal or financial records or other documents obtained by the Division of Financial Institutions pursuant to an examination or audit conducted by the Division pursuant to this chapter and any other private information relating to a family trust company are confidential and may be disclosed only to:

(a) The Division, any authorized employee of the Division and a state or federal agency investigating activities regulated pursuant to this chapter; ~~and~~

(b) The Department of Taxation for its use in carrying out the provisions of section 2 to 62, inclusive, of this act; and

(c) Any other person if the Commissioner, in the Commissioner's discretion, determines that the interests of the public in disclosing the information outweigh the interests of the person about whom the information pertains in not disclosing the information.

2. The Commissioner shall give to the family trust company to which the information relates 10-days' prior written notice of intent to disclose confidential information directly or indirectly to a person pursuant to paragraph ~~((b))~~ (c) of subsection 1. Any family trust company which receives such a notice may object to the disclosure of the confidential information and will be afforded the right to a hearing in accordance with the provisions of chapter 233B of NRS. If a family trust company requests a hearing, the Commissioner may not reveal confidential information prior to the conclusion of the hearing and a ruling. Prior to dissemination of any confidential information, the Commissioner shall require a written agreement not to reveal the confidential information by the party receiving the confidential information. In no event shall the Commissioner disclose

confidential information to the general public, any competitor or any potential competitor of a family trust company.

3. Nothing in this chapter is intended to preclude a law enforcement officer from gaining access to otherwise confidential records by subpoena, court order, search warrant or other lawful means. Notwithstanding any other provision of this chapter, the Commissioner shall have the ability to share information with other out of state or federal regulators with whom the Department of Business and Industry has an agreement regarding the sharing of information. Nothing in this chapter is intended to preclude any agency of this State from gaining access to otherwise confidential records in accordance with any applicable law.

NEW section 159.45 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.45. NRS 673.484 is hereby amended to read as follows:

673.484 The Commissioner may after notice and hearing suspend or revoke the charter of any association for:

1. Repeated failure to abide by the provisions of this chapter or the regulations adopted thereunder.

2. Failure to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~159~~ or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act.

NEW section 159.5 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.5. NRS 675.440 is hereby amended to read as follows:

675.440 1. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, he or she shall give 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 either 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. A copy of the order must be sent by registered or certified mail to the licensee.

(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 lawful regulation adopted under it.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including his or her 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, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any lawful regulation adopted under it;

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~159~~ or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act.

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license hereunder; or

(e) The applicant failed to open an office for the conduct of the business authorized under this chapter within 120 days after the date the license was issued, or has failed to remain open for the conduct of the business for a period of 120 days without good cause therefor.

4. Any revocation or suspension applies only to the license granted to a person for the particular office for which grounds for revocation or suspension exist.

5. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

NEW section 159.6 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.6. NRS 677.510 is hereby amended to read as follows:

677.510 1. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, he or she shall give 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 either dismissing the charges, or revoking the license, or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. A copy of the order must be sent by registered or certified mail to the licensee.

(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 lawful 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 his or her 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, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter, or any lawful regulation adopted pursuant thereto;

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~or~~ or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act;

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license hereunder; or

(e) The applicant failed to open an office for the conduct of the business authorized under this chapter within 120 days after the date the license was issued, or has failed to remain open for the conduct of the business for a period of 120 days without good cause therefor.

4. Any revocation or suspension applies only to the license granted to a person for the particular office for which grounds for revocation or suspension exist.

5. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

NEW section 159.65 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.65. NRS 680B.020 is hereby amended to read as follows:

680B.020 1. Notwithstanding the provisions of any general or special law ~~that~~ and except as otherwise provided in subsection 3, the possession of a license or certificate of authority issued under this Code shall be authorization to transact such business as indicated in such license or certificate of authority, and shall be in lieu of all licenses, whether for regulation or revenue, required to transact insurance business within the State of Nevada; but each city, town or county may require a license for revenue purposes only for any insurance agent, broker, analyst, adjuster or managing general agent whose principal place of business is located within such city or town, or within the county outside the cities and towns of the county, respectively.

2. This section shall not be modified or repealed by any law of general application enacted after January 1, 1972, unless expressly referred to or expressly repealed therein.

3. The provisions of this section do not apply to the fee imposed pursuant to the provisions of sections 2 to 62, inclusive, of this act.

NEW section 159.7 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.7. NRS 680B.037 is hereby amended to read as follows:

680B.037 ~~[Payment]~~

1. Except as otherwise provided in subsection 2, payment by an insurer of the tax imposed by NRS 680B.027 is in lieu of all taxes imposed by the State or any city, town or county upon premiums or upon income of insurers and of franchise, privilege or other taxes measured by income of the insurer.

2. The provisions of subsection 1 do not apply to the fee imposed pursuant to the provisions of sections 2 to 62, inclusive, of this act.

NEW section 159.75 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.75. NRS 683A.451 is hereby amended to read as follows:

683A.451 The Commissioner may refuse to issue a license or certificate pursuant to this chapter or may place any person to whom a license or certificate is issued pursuant to this chapter on probation, suspend the person for not more than 12 months, or revoke or refuse to renew his or her license or certificate, or may impose an administrative fine or take any combination of the foregoing actions, for one or more of the following causes:

1. Providing incorrect, misleading, incomplete or partially untrue information in his or her application for a license.

2. Violating a law regulating insurance, or violating a regulation, order or subpoena of the Commissioner or an equivalent officer of another state.

3. Obtaining or attempting to obtain a license through misrepresentation or fraud.

4. Misappropriating, converting or improperly withholding money or property received in the course of the business of insurance.

5. Intentionally misrepresenting the terms of an actual or proposed contract of or application for insurance.

6. Conviction of a felony.

7. Admitting or being found to have committed an unfair trade practice or fraud.

8. Using fraudulent, coercive or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere.

9. Denial, suspension or revocation of a license as a producer of insurance, or its equivalent, in any other state, territory or province.

10. Forging another's name to an application for insurance or any other document relating to the transaction of insurance.

11. Improperly using notes or other reference material to complete an examination for a license related to insurance.

12. Knowingly accepting business related to insurance from an unlicensed person.

13. Failing to comply with an administrative or judicial order imposing an obligation of child support.

14. Failing to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~11~~ or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act.

NEW section 159.8 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.8. NRS 686C.360 is hereby amended to read as follows:

686C.360 The Association is exempt from payment of all fees and all taxes levied by this state or any of its political subdivisions, except taxes on property ~~11~~ and the fee imposed pursuant to the provisions of sections 2 to 62, inclusive, of this act.

NEW section 159.85 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.85. NRS 687A.130 is hereby amended to read as follows:

687A.130 The Association is exempt from payment of all fees and all taxes levied by this State or any of its subdivisions, except: ~~taxes;~~

1. ~~Levied~~ Taxes levied on real or personal property; ~~or~~

2. ~~Imposed~~ Taxes imposed pursuant to the provisions of chapter 363A or 363B of NRS ~~11~~; and

3. The fee imposed pursuant to the provisions of sections 2 to 62, inclusive, of this act.

NEW section 159.9 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.9. NRS 688C.210 is hereby amended to read as follows:

688C.210 1. After notice, and after a hearing if requested, the Commissioner may suspend, revoke, refuse to issue or refuse to renew a license under this chapter if the Commissioner finds that:

- (a) There was material misrepresentation in the application for the license;
- (b) The licensee or an officer, partner, member or significant managerial employee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action for disqualification, or is otherwise shown to be untrustworthy or incompetent;
- (c) A provider of viatical settlements has engaged in a pattern of unreasonable payments to viators;
- (d) The applicant or licensee has been found guilty or guilty but mentally ill of, or pleaded guilty, guilty but mentally ill or nolo contendere to, a felony or a misdemeanor involving fraud, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude, whether or not a judgment of conviction has been entered by the court;
- (e) A provider of viatical settlements has entered into a viatical settlement in a form not approved pursuant to NRS 688C.220;
- (f) A provider of viatical settlements has failed to honor obligations of a viatical settlement or an agreement to purchase a viatical settlement;
- (g) The licensee no longer meets a requirement for initial licensure;
- (h) A provider of viatical settlements has assigned, transferred or pledged a viaticated policy to a person other than another provider licensed under this chapter, a purchaser of the viatical settlement or a special organization;
- (i) The applicant or licensee has provided materially untrue information to an insurer that issued a policy that is the subject of a viatical settlement;
- (j) The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS ~~679~~ *or a fee as required pursuant to the provisions of sections 2 to 62, inclusive, of this act;*
- (k) The applicant or licensee has violated a provision of this chapter or other applicable provisions; or
- (l) The applicant or licensee has acted in bad faith with regard to a viator.

2. A suspension imposed for grounds set forth in paragraph (k) or (l) of subsection 1 must not exceed a period of 12 months.

3. If the Commissioner takes action as described in subsection 1, the applicant or licensee may apply in writing for a hearing before the Commissioner to determine the reasonableness of the action taken by the Commissioner, pursuant to the provisions of NRS 679B.310 to 679B.370, inclusive.

NEW section 159.93 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.93. NRS 694C.450 is hereby amended to read as follows:

694C.450 1. Except as otherwise provided in this section, a captive insurer shall pay to the Division, not later than March 1 of each year, a tax at the rate of:

- (a) Two-fifths of 1 percent on the first \$20,000,000 of its net direct premiums;
- (b) One-fifth of 1 percent on the next \$20,000,000 of its net direct premiums; and

(c) Seventy-five thousandths of 1 percent on each additional dollar of its net direct premiums.

2. Except as otherwise provided in this section, a captive insurer shall pay to the Division, not later than March 1 of each year, a tax at a rate of:

(a) Two hundred twenty-five thousandths of 1 percent on the first \$20,000,000 of revenue from assumed reinsurance premiums;

(b) One hundred fifty thousandths of 1 percent on the next \$20,000,000 of revenue from assumed reinsurance premiums; and

(c) Twenty-five thousandths of 1 percent on each additional dollar of revenue from assumed reinsurance premiums.

➤ The tax on reinsurance premiums pursuant to this subsection must not be levied on premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection 1. A captive insurer is not required to pay any reinsurance premium tax pursuant to this subsection on revenue related to the receipt of assets by the captive insurer in exchange for the assumption of loss reserves and other liabilities of another insurer that is under common ownership and control with the captive insurer, if the transaction is part of a plan to discontinue the operation of the other insurer and the intent of the parties to the transaction is to renew or maintain such business with the captive insurer.

3. If the sum of the taxes to be paid by a captive insurer calculated pursuant to subsections 1 and 2 is less than \$5,000 in any given year, the captive insurer shall pay a tax of \$5,000 for that year. The maximum aggregate tax for any year must not exceed \$175,000. The maximum aggregate tax to be paid by a sponsored captive insurer applies only to each protected cell and does not apply to the sponsored captive insurer as a whole.

4. Two or more captive insurers under common ownership and control must be taxed as if they were a single captive insurer.

5. Notwithstanding any specific statute to the contrary and except as otherwise provided in this subsection, the tax provided for by this section constitutes all the taxes collectible pursuant to the laws of this State from a captive insurer, and no occupation tax or other taxes may be levied or collected from a captive insurer by this State or by any county, city or municipality within this State, except for taxes imposed pursuant to chapter 363A or 363B of NRS, the fee imposed pursuant to sections 2 to 62, inclusive, of this act and ad valorem taxes on real or personal property located in this State used in the production of income by the captive insurer.

6. Twenty-five percent of the revenues collected from the tax imposed pursuant to this section must be deposited with the State Treasurer for credit to the Account for the Regulation and Supervision of Captive Insurers created pursuant to NRS 694C.460. The remaining 75 percent of the revenues collected must be deposited with the State Treasurer for credit to the State General Fund.

7. A captive insurer that is issued a license pursuant to this chapter after July 1, 2003, is entitled to receive a nonrefundable credit of \$5,000 applied

against the aggregate taxes owed by the captive insurer for the first year in which the captive insurer incurs any liability for the payment of taxes pursuant to this section. A captive insurer is entitled to a nonrefundable credit pursuant to this section not more than once after the captive insurer is initially licensed pursuant to this chapter.

8. As used in this section, unless the context otherwise requires:

(a) "Common ownership and control" means:

(1) In the case of a stock insurer, the direct or indirect ownership of 80 percent or more of the outstanding voting stock of two or more corporations by the same member or members.

(2) In the case of a mutual insurer, the direct or indirect ownership of 80 percent or more of the surplus and the voting power of two or more corporations by the same member or members.

(b) "Net direct premiums" means the direct premiums collected or contracted for on policies or contracts of insurance written by a captive insurer during the preceding calendar year, less the amounts paid to policyholders as return premiums, including dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

NEW section 159.97 of Senate Bill No. 252 is hereby added as follows:

Sec. 159.97. NRS 695A.550 is hereby amended to read as follows:

695A.550 Every society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and is exempt from every state, county, district, municipal and school tax other than the fee imposed pursuant to sections 2 to 62, inclusive, of this act and taxes on real property and office equipment.

Section 161 of Senate Bill No. 252 is hereby amended as follows:

Sec. 161. Notwithstanding the provisions of this act, the Department shall waive payment of a penalty or interest for a person's failure to timely file a report or pay the state business license fee imposed pursuant to section 19 of this act, and shall not suspend or revoke a state business license issued pursuant to section 18 of this act for any failure to comply with the provisions of this act, which occurs before September 1, 2016, regardless of when the Department makes the determination that the person failed to file a report or pay the state business license fee, if the failure:

1. Occurred despite the person's exercise of ordinary care; and
2. Was not intentional or the result of willful neglect.

Section 162 of Senate Bill No. 252 is hereby amended as follows:

Sec. 162. 1. Any administrative regulations relating to the state business license required pursuant to chapter 76 of NRS, as they existed before July 1, 2015, which were adopted by the Secretary of State and which conflict or are inconsistent with the provisions of this act, are void, unless those regulations are amended before July 1, 2015, to be consistent with the provisions of this act.

2. Any administrative regulations relating to the state business license required pursuant to chapter 76 of NRS, as they existed before July 1, 2015,

which were adopted by the Secretary of State before July 1, 2015, and which are not in conflict or inconsistent with the provisions of this act, remain in force until amended by the Department of Taxation.

Senator Roberson moved the adoption of the amendment.

Remarks by Senator Roberson.

Amendment No. 221 to Senate Bill No. 252 adds a preamble to the bill, provides technical and typographical corrections, and amends various provisions related to the administration of the Business License Fee by the Department of Taxation. The amendment specifies that the state Business License Fee is imposed on any business that has sufficient nexus with this State to satisfy the requirements of the United States Constitution, and that a business is controlled by another business when the other business owns, controls or possesses 50 percent or more of the business. If a person is conducting business in more than one business category, the person is primarily engaged in the business category in which the highest percentage of Nevada gross revenue is generated.

A person who does not pay wages in this State is authorized to pay the State Business License Fee annually rather than quarterly, and a business who uses an employee leasing company is deemed to have paid wages for the purposes of the Business License Fee.

Entities that are regulated under the Nevada Insurance Code are required to comply with the Business License Fee requirements of the bill. However, insurance premiums subject to taxes imposed pursuant to the Nevada Insurance Code are not included in Nevada gross revenue for the purposes of determining the Business License Fee.

The amendment authorizes a business to elect either the cash or accrual method of accounting for the purposes of the Business License Fee and prohibits a change to the method of accounting more often than once every three years unless the Department of Taxation consents to a more frequent change.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Kieckhefer moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 7:39 p.m.

SENATE IN SESSION

At 9:52 p.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 439, 440, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES A. SETTELMAYER, *Chair*

Mr. President:

Your Committee on Education, to which were referred Senate Bills Nos. 13, 178, 195, 313, 390, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BECKY HARRIS, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Senate Bills Nos. 324, 404, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SCOTT HAMMOND, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bill No. 310 be taken from the General File and placed on the Secretary's desk.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 13.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 295.

SUMMARY—Revises provisions relating to the provision of public education to pupils with disabilities. (BDR 34-311)

AN ACT relating to education; revising provisions relating to an individualized education program for a pupil with a hearing impairment; revising provisions governing parent representation of the educational interests of a pupil with a disability; revising provisions relating to the minimum standards prescribed by the State Board of Education for pupils with hearing impairments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The federal Individuals with Disabilities Education Act governs how states and public agencies provide early intervention, special education and related services to pupils with disabilities. (20 U.S.C. § 1400 et seq.) The Act includes a requirement to develop an individualized education program for each pupil with a disability by an individualized education program team. (20 U.S.C. § 1414(d)) Section 1 of this bill revises the definition of a "pupil with a disability" to align with the definition of "child with a disability" in the Individuals with Disabilities Education Act. (20 U.S.C. § 1401(3)(A)) ~~[Section 2 of this bill changes the standard used by a pupil's individualized education program team when developing an individualized education program for a pupil with a hearing impairment from the "best feasible" services, placement and content to "appropriate" services, placement and content. (NRS 388.477)]~~

Existing law authorizes a pupil with a disability who does not satisfy the requirements for a standard high school diploma to receive an adjusted diploma instead which evidences the graduation from high school if the pupil satisfies the requirements set forth in his or her individualized education program. (NRS 389.805) Existing law further provides that any right accorded to a parent of a pupil with a disability pursuant to the Individuals with Disabilities Act transfers to the pupil when the pupil attains the age of 18 years unless the school district or charter school approves an application

of a parent to be appointed to represent the interests of the pupil. (NRS 388.492, 388.493) Existing law also provides that if such an application is granted, a parent represents the educational interests of the pupil until: (1) the pupil receives a standard high school diploma or an adjusted diploma; (2) the pupil is no longer enrolled in a program of special education; or (3) the parent elects to transfer the right to represent his or her own educational interests to the pupil. Section 3 of this bill removes the reference to an adjusted diploma so that a parent who represents the interests of a pupil with a disability will continue to do so until the pupil receives a standard diploma or is no longer enrolled in a program of special education.

Existing law requires the State Board of Education to prescribe certain minimum standards for the special education of pupils with disabilities and for programs of instruction or special services maintained for the purpose of serving such pupils with disabilities and has specific requirements for pupils with hearing impairments. (NRS 388.520) Section 4 of this bill removes the specific requirements that the minimum standards prescribed for pupils with hearing impairments include certain provisions. Instead, section 4 requires those minimum standards ~~[will be determined using the same criteria as other disabilities.]~~ to comply with federal law concerning persons with hearing impairments.

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

Section 1. NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5317, inclusive:

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.}~~ *has the meaning ascribed to the term "child with a disability" in 20 U.S.C. § 1401(3)(A).*

Sec. 2. ~~[NRS 388.477 is hereby amended to read as follows:~~

~~388.477 1. When developing an individualized education program for a pupil with a hearing impairment in accordance with NRS 388.520, the pupil's individualized education program team shall consider, without limitation:~~

~~—(a) The related services and program options that provide the pupil with an appropriate and equal opportunity for communication access;~~

~~—(b) The pupil's primary communication mode;~~

~~—(c) The availability to the pupil of a sufficient number of age, cognitive, academic and language peers of similar abilities;~~

~~—(d) The availability to the pupil of adult models who are deaf or hearing impaired and who use the pupil's primary communication mode;~~

~~—(e) The availability of special education teachers, interpreters and other special education personnel who are proficient in the pupil's primary communication mode;~~

~~—(f) The provision of academic instruction, school services and direct access to all components of the educational process, including, without limitation, advanced placement courses, career and technical education courses, recess, lunch, extracurricular activities and athletic activities;~~

~~—(g) The preferences of the parent or guardian of the pupil concerning the [best feasible] appropriate services, placement and content of the pupil's individualized education program; and~~

~~—(h) The appropriate assistive technology necessary to provide the pupil with an appropriate and equal opportunity for communication access.~~

~~2. When determining the [best feasible] appropriate instruction to be provided to the pupil in his or her primary communication mode, the pupil's individualized education program team may consider, without limitation:~~

~~—(a) Changes in the pupil's hearing or vision;~~

~~—(b) Development in or availability of assistive technology;~~

~~—(c) The physical design and acoustics of the learning environment; and~~

~~—(d) The subject matter of the instruction to be provided.] (Deleted by amendment.)~~

Sec. 3. NRS 388.493 is hereby amended to read as follows:

388.493 1. A parent of a pupil with a disability may, at least 90 days before the pupil attains 18 years of age, submit an application to the school district or the charter school in which the pupil is enrolled to appoint the parent to represent the educational interests of the pupil if:

(a) The parent believes that the pupil does not have the ability to provide informed consent with respect to the pupil's own educational program; and

(b) The status of the pupil is such, as determined in accordance with the regulations adopted pursuant to subsection 5, that the parent is authorized to submit such an application.

2. The application must be submitted on a concise form prescribed by the Department. The application:

(a) Must not be unduly burdensome on the parent to fill out; and

(b) Must not require the pupil to sign the application or otherwise require the pupil to grant permission for the parent to represent the pupil's educational interests.

3. If the school district or charter school grants an application, the parent shall continue to represent the educational interests of the pupil until:

(a) The pupil receives a standard high school diploma ; ~~for an adjusted diploma;~~

(b) The pupil is no longer enrolled in a program of special education pursuant to NRS 388.440 to 388.5317, inclusive; or

(c) The parent elects to transfer the right to represent educational interests to the pupil.

4. A parent or a pupil may appeal a determination made pursuant to this section in accordance with the procedure used by the Department for administrative complaints.

5. The State Board shall adopt regulations to carry out this section and NRS 388.492, including, without limitation, the establishment of criteria for determining whether the status of a pupil with a disability is such that his or her parent is authorized to submit an application to represent the educational interests of the pupil pursuant to this section.

Sec. 4. 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}~~ Emotional disturbances.
- (h) Other health impairments.
- (i) Specific learning disabilities.
- (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.]~~ comply with:

(a) The Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto;

(b) The effective communication requirement of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 et seq., and the regulations adopted pursuant thereto; and

(c) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and the regulations adopted pursuant thereto.

6. 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. ~~6.7~~ 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. ~~77~~~~ 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. 5. This act becomes effective on July 1, 2015.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

Amendment No. to Senate Bill No. 13: 1) retains the term "best feasible" related to services or instruction for students with hearing impairments; and 2) clarifies that the minimum standards for the special education of students with hearing impairments shall be in accordance with federal law.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 178.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 186.

SUMMARY—Revises provisions relating to pupil health. (BDR 34-235)

AN ACT relating to education; requiring ~~all public and private schools to provide instruction in physical education for certain grades; requiring certain pupils enrolled in a public or private school to take physical education in certain grade levels; prescribing the minimum number of credits required of pupils enrolled;~~ each school district, charter school and private school to submit an annual report to the Department of Education describing the course of study in ~~high school in~~ physical education ~~that has been provided to pupils during the immediately preceding school year;~~ requiring the ~~Council to Establish Academic Standards for Public Schools~~ board of trustees of a school district to ~~establish standards of content and performance for~~ adopt a policy which encourages elementary schools within the district to provide a certain amount of physical ~~education;~~ activity per school week for certain pupils; requiring a pupil to be excused from physical education under certain circumstances; requiring certain school districts to collect data concerning the height and weight of pupils; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law designates English, mathematics, science and social studies as the core academic subjects and requires all public schools, including, without limitation, charter schools, to teach such subjects. (NRS 386.550, 389.018) In addition to the core academic subjects, existing law requires public schools to teach certain additional subjects, including, without limitation, physical education, to the extent practicable. (NRS 389.018)) Existing law requires the Council to Establish Academic Standards for Public Schools to establish standards of content and performance for certain grade~~

~~levels and certain courses of study.] physical education. (NRS 389.520) [Section 8 of this bill requires the Council to establish standards of content and performance for each grade level in kindergarten through grade 11 for physical education. Sections 3 and 6 of this bill require public schools, including, without limitation, charter schools, to teach physical education in kindergarten through grade 11. Sections 3 and 6 also require all pupils enrolled in kindergarten through grade 11 in such schools to take physical education. Sections 3 and 6 also exempt a pupil who will complete the requirements for graduation from high school at least 1 year early from the requirement to take physical education when the pupil has completed enough credits to qualify as entering grade 12.] Section 5 of this bill [establishes certain minimum requirements for a course of study in physical education. Sections 1 and 2 of this bill provide that statutory and regulatory requirements relating] requires the board of trustees of each school district, the governing body of each charter school and the governing body of each private school to [a course of study in physical education may not be waived. Because existing law requires that private schools provide instruction in those subjects required by law for pupils in public schools,] submit an annual report to the [requirements set forth] Department of Education describing the course of study in [this bill regarding] physical education [also apply to private schools. (NRS 394.130)] that has been provided to pupils at each grade level during the immediately preceding school year.~~

Section 8.5 of this bill requires the board of trustees of a school district to adopt a policy which encourages elementary schools within the school district to provide not less than 75 minutes of physical activity per school week to pupils enrolled in kindergarten and grades 1 to 5, inclusive.

~~Existing law requires [a pupil enrolled in public high school to enroll in certain minimum units of credit in certain academic subjects. Existing law also authorizes a pupil, his or her parents or legal guardian and an administrator or counselor at] the [school] board of trustees of a school district to [mutually agree to] excuse a [modified course of study for] child from the [pupil. (NRS 389.018) Section 6 requires a pupil enrolled in public high school to enroll in a minimum of three units of credit in physical education and provides that this] requirement [may not be modified by such an agreement.~~

~~Existing law establishes a Program of Empowerment Schools for public schools within this State and requires a school that wishes to participate in] that the [Program to develop an empowerment plan. (NRS 386.720, 386.730) Existing law authorizes an empowerment plan to include a request for a waiver of certain statutory or regulatory requirements. (NRS 386.740) Section 4 of this bill prohibits a request for a waiver from] child attend school when written evidence is presented to the [requirement] board of trustees of the school district that [physical education be taught in all public schools or from regulations relating to physical education in an empowerment plan.] the child's physical or mental condition prevents or~~

renders inadvisable the child's attendance at school. (NRS 392.050) Section 8.7 of this bill requires a pupil to be excused from physical education when written evidence is presented to the teacher who teaches physical education that the pupil's physical condition is such as to prevent or render inadvisable the pupil's participation in physical education.

Existing law requires the board of trustees of each school district in a county whose population is 100,000 or more (currently Clark and Washoe Counties), until June 30, 2015, to: (1) conduct examinations of the height and weight of certain pupils in the schools within the school district; (2) provide notice of such examinations to the parent or guardian of a child before performing the examination; and (3) report the results of such examinations to the Chief Medical Officer. (NRS 392.420) Section 9 of this bill: (1) requires the board of trustees of each such school district to use school nurses, health personnel and certain teachers to conduct such examinations beginning on July 1, 2016; and (2) provides that school authorities are not required to provide notice to the parent or guardian of a child before conducting such an examination. ~~[Section 9 also requires the Division of Public and Behavioral Health of the Department of Health and Human Services to: (1) compile a report of the results of such examinations specific to each region of this State for which such information is collected; and (2) publish and disseminate the reports.]~~

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

Section 1. ~~[NRS 385.110 is hereby amended to read as follows:~~

~~385.110 1. Except as otherwise provided in subsections 2 and 3, the State Board shall prescribe and cause to be enforced the courses of study for the public schools of this State. The courses of study prescribed and enforced by the State Board must comply with the standards of content and performance established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520.~~

~~2. For those courses of study prescribed by the State Board:~~

~~(a) High schools may have modified courses of study, subject to the approval of the State Board; and~~

~~(b) Any high school offering courses normally accredited as being beyond the level of the 12th grade shall, before offering such courses, have them approved by the State Board.~~

~~3. [A] Except as otherwise provided in paragraph (j) of subsection 1 of NRS 386.550, a charter school is not required to offer the courses of study prescribed by the State Board except for those courses of study which are required for promotion to the next grade or graduation from high school.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 386.4158 is hereby amended to read as follows:~~

~~386.4158 [The]~~

~~1. Except as otherwise provided in subsection 2, the State Board may waive a course of study otherwise required by statute upon application of the~~

~~board of trustees of a school district on behalf of a school council created pursuant to a program of school based decision making.~~

~~2. The State Board may not waive the requirement to teach physical education set forth in subsection 3 of NRS 389.018.] (Deleted by amendment.)~~

~~Sec. 3. [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) Except as otherwise provided in this paragraph, provide instruction in physical education and require the pupils who are enrolled in kindergarten~~

~~and grades 1 to 11, inclusive, in the charter school to take physical education. A pupil who will complete the requirements for graduation from high school at least 1 year early is not required to take physical education when the pupil has completed enough credits to qualify as entering grade 12.~~

~~— (k) 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)] (l) Refrain from using public money to purchase real property or buildings without the approval of the sponsor.~~

~~— [(l)] (m) 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)] (n) 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)] Accreditation Commission or its successor organization.~~

~~— (o) 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)] (p) 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.} (Deleted by amendment.)~~

Sec. 4. ~~[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 [.] , except for a waiver from the provisions of subsection 3 of NRS 389.018.~~

~~—(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. 5. Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[1. A course of study in physical education required to be taught for kindergarten and grades 1 to 11, inclusive, pursuant to NRS 389.018 must include, without limitation:~~

~~— (a) Not less than 30 minutes per school day of instruction in physical education; and~~

~~— (b) Not less than 75 minutes per school week of instruction in physical education which is devoted to moderate to vigorous physical activity.~~

~~2. Except as otherwise provided in this subsection, any time spent engaging in an activity which is not included in a course of study in physical education, including, without limitation, recess and any extracurricular activity, may not count towards meeting the requirements of subsection 1. Any time spent engaging in extracurricular sports whether or not they are offered at the school may count towards meeting the requirements of subsection 1.~~

~~3. Instruction in physical education may not be withheld or used to punish a pupil.~~

~~4. A pupil may not receive a waiver to take a course of study in physical education required pursuant to subsection 3 of NRS 389.018.~~

~~5.] The board of trustees of each school district, the governing body of each charter school and the governing body of each private school shall submit an annual report to the Department describing the course of study in physical education that has been provided to pupils at each grade level during the immediately preceding school year.~~

~~[6. The State Board shall adopt such regulations as it determines are necessary to carry out the provisions of this section.]~~

Sec. 6. ~~[NRS 389.018 is hereby amended to read as follows:~~

~~389.018 1. The following subjects are designated as the core academic subjects that must be taught, as applicable for grade levels, in all public~~

~~schools, 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:~~

- ~~— (a) English, including reading, composition and writing;~~
- ~~— (b) Mathematics;~~
- ~~— (c) Science; and~~
- ~~— (d) Social studies, which includes only the subjects of history, geography, economics and government.~~

~~2. Except as otherwise provided in this subsection, a pupil enrolled in a public high school must enroll in a minimum of:~~

- ~~— (a) Four units of credit in English;~~
- ~~— (b) Four units of credit in mathematics, including, without limitation, Algebra I and geometry, or an equivalent course of study that integrates Algebra I and geometry;~~
- ~~— (c) Three units of credit in physical education;~~
- ~~— (d) Three units of credit in science, including two laboratory courses; and~~
- ~~— [(d)] (e) Three units of credit in social studies, including, without limitation:~~
 - ~~— (1) American government;~~
 - ~~— (2) American history; and~~
 - ~~— (3) World history or geography.~~

~~↗-[A] Except for the credits in physical education, a pupil is not required to enroll in the courses of study and credits required by this subsection if the pupil, the parent or legal guardian of the pupil and an administrator or a counselor at the school in which the pupil is enrolled mutually agree to a modified course of study for the pupil and that modified course of study satisfies at least the requirements for a standard high school diploma or an adjusted diploma, as applicable.~~

~~3. In addition to the other subjects that must be taught pursuant to this section, physical education must be taught in all public schools for kindergarten and grades 1 to 11, inclusive, 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. Except as otherwise provided in this subsection, a pupil enrolled in a public school in kindergarten or grades 1 to 11, inclusive, or a child committed to the Caliente Youth Center, the Nevada Youth Training Center or any other state facility for the detention of children that is operated pursuant to title 5 of NRS in kindergarten or grades 1 to 11, inclusive, shall take a course of study in physical education. A pupil who will complete the requirements for graduation from high school at least 1 year early is not required to take physical education when the pupil has completed enough credits to qualify as entering grade 12.~~

~~4. Except as otherwise provided in this subsection, in addition to the core academic subjects, the following subjects must be taught as applicable for grade levels and to the extent practicable in all public schools, 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:~~

- ~~— (a) The arts;~~
- ~~— (b) Computer education and technology; and~~
- ~~— (c) Health. [; and~~
- ~~— (d) Physical education.]~~

~~➤ If the State Board requires the completion of course work in a subject area set forth in this subsection for graduation from high school or promotion to the next grade, a public school shall offer the required course work. Except as otherwise provided for a course of study in health prescribed by subsection 1 of NRS 389.0185, unless a subject is required for graduation from high school or promotion to the next grade, a charter school is not required to comply with this subsection.] (Deleted by amendment.)~~

~~Sec. 7. [NRS 389.0185 is hereby amended to read as follows:~~

~~— 389.0185 1. The State Board shall adopt regulations establishing courses of study and the grade levels for which the courses of study apply for:~~

~~— (a) The academic subjects set forth in NRS 389.018. A course of study in health prescribed pursuant to paragraph (c) of subsection [3] 4 of NRS 389.018 must, to the extent money is available for this purpose, for pupils enrolled in middle school, junior high school or high school, including, without limitation, pupils enrolled in those grade levels at a charter school, include instruction in:~~

~~— (1) The administration of hands only or compression only cardiopulmonary resuscitation, including a psychomotor skill based component, according to the guidelines of the American Red Cross or American Heart Association; and~~

~~— (2) The use of an automated external defibrillator.~~

~~— (b) Citizenship and physical training for pupils enrolled in high school.~~

~~— (c) Physiology, hygiene and, except as otherwise prescribed by paragraph (a), cardiopulmonary resuscitation.~~

~~— (d) The prevention of suicide.~~

~~— (e) Instruction relating to child abuse.~~

~~— (f) The economics of the American system of free enterprise.~~

~~— (g) American Sign Language.~~

~~— (h) Environmental education.~~

~~— (i) Adult roles and responsibilities.~~

~~➤ A course of study established for paragraph (a) may include one or more of the subjects listed in paragraphs (b) to (i), inclusive.~~

~~— 2. If a course of study in health in middle school, junior high school or high school includes instruction in cardiopulmonary resuscitation and the use of an automated external defibrillator:~~

~~— (a) A teacher who provides the instruction is not required to hold certification in the administration of cardiopulmonary resuscitation unless~~

~~required by the board of trustees of the school district pursuant to NRS 391.092 or by the governing body of the charter school.~~

~~— (b) The board of trustees of the school district or the governing body of the charter school may collaborate with entities to assist in the provision of the instruction and the provision of equipment necessary for the instruction, including, without limitation, fire departments, hospitals, colleges and universities and public health agencies.~~

~~— (c) A pupil who is enrolled in a course of study in health through a program of distance education or a pupil with a disability who cannot perform the tasks included in the instruction is not required to complete the instruction to pass the course of study in health. (Deleted by amendment.)~~

Sec. 8. ~~[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, 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;~~

~~— (e) 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 Council shall establish standards of content and performance for [each]:~~

~~— (a) 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];~~

~~— (b) Each grade level in kindergarten and grades 1 to 11, inclusive, for physical education which are consistent with the provisions of section 5 of this act; and~~

~~— (c) The grade levels selected by the Council for the other courses of study prescribed in subsection 1.~~

~~— 4. 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. 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. The Council shall work in cooperation with the State Board to prescribe the examinations required by NRS 389.550.~~

~~7. 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.] (Deleted by amendment.)~~

Sec. 8.3. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 8.5 and 8.7 of this act.

Sec. 8.5. The board of trustees of a school district shall adopt a policy which encourages the elementary schools within the school district to provide not less than 75 minutes of physical activity per school week to pupils enrolled in kindergarten and grades 1 to 5, inclusive.

Sec. 8.7. 1. A pupil must be excused from participating in a course of physical education when satisfactory written evidence is presented to the principal of the school or the teacher of the course that the pupil's physical condition is such as to prevent or render inadvisable the participation by the pupil in the course.

2. A certificate in writing from any qualified physician acting within his or her authorized scope of practice providing the information described in subsection 1 shall be deemed to be satisfactory written evidence for purposes of subsection 1.

Sec. 9. NRS 392.420 is hereby amended to read as follows:

392.420 1. In each school at which a school nurse is responsible for providing nursing services, the school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:

(a) For visual and auditory problems:

(1) Before the completion of the first year of initial enrollment in elementary school;

(2) In at least one additional grade of the elementary schools; and

(3) In one grade of the middle or junior high schools and one grade of the high schools; and

(b) For scoliosis, in at least one grade of schools below the high schools.

→ Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, who performs an observation or examination pursuant to this

subsection must be trained by a school nurse to conduct the observation or examination.

2. *In addition to the requirements of subsection 1, the board of trustees of each school district in a county whose population is 100,000 or more shall direct school nurses, qualified health personnel employed pursuant to subsection 6, teachers who teach physical education or health or other licensed educational personnel who have completed training in measuring the height and weight of a pupil provided by the school district, to measure the height and weight of a representative sample of pupils who are enrolled in grades 4, 7 and 10 in the schools within the school district. The Division of Public and Behavioral Health of the Department of Health and Human Services shall determine the number of pupils necessary to include in the representative sample.*

3. If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, the child must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.

~~{3-}~~ 4. A special examination for a possible visual or auditory problem must be provided for any child who:

- (a) Is enrolled in a special program;
- (b) Is repeating a grade;
- (c) Has failed an examination for a visual or auditory problem during the previous school year; or
- (d) Shows in any other way that the child may have such a problem.

~~{4-}~~ 5. The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.

~~{5-}~~ 6. In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.

~~{6-}~~ 7. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:

- (a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and
- (b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.

~~{7.—The}~~

8. *Except as otherwise provided in this subsection, the school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from an examination if the child's parent or guardian files with the teacher a written statement objecting to the examination.*

~~{8.} School authorities are not required to provide notice to the parent or guardian of a child before measuring the child's height or weight pursuant to subsection 2 if it is not practicable to do so.~~

9. Each school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he or she is responsible for providing services to the Chief Medical Officer in the format prescribed by the Chief Medical Officer. Each such report must exclude any identifying information relating to a particular child. The Chief Medical Officer shall compile all such information the Officer receives to monitor the health status of children and shall retain the information.

~~{ 10. The Division of Public and Behavioral Health of the Department of Health and Human Services shall:~~

~~— (a) Compile a report relating to each region of this State for which data is collected regarding the height and weight of pupils measured pursuant to subsection 2 and reported to the Chief Medical Officer pursuant to subsection 9; and~~

~~— (b) Publish and disseminate the reports not later than 12 months after receiving the results of the examinations pursuant to subsection 9.]~~

Sec. 10. ~~[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. 11. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any 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.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment to Senate Bill No. 178 encourages school districts to provide at least 75 minutes of weekly physical activity in grades 1 through 5; clarifies that this does not apply to a student with a disability who is unable to participate, as determined by a doctor; removes all requirements to provide physical education and to create related standards and regulations; removes the provision requiring Public and Behavioral Health to compile and disseminate a report on height and weight measurements; and adds Senator Hammond as a sponsor.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 195.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 508.

SUMMARY—Revises provisions relating to higher education.
(BDR 34-509)

AN ACT relating to education; ~~revising provisions relating to tuition charges for attending a campus of the Nevada System of Higher Education assessed against students whose families do not reside in this State; requiring a student who receives a Governor Guinn Millennium Scholarship to perform community service;~~ creating the Office of the Western Regional Higher Education Compact within the Office of the Governor; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law authorizes the Board of Regents of the University of Nevada to assess a tuition charge against certain students who are not residents of the State of Nevada in addition to registration fees or other fees assessed against students who are residents of the State of Nevada. Under existing law, a student at certain schools in the Nevada System of Higher Education whose family resides outside of this State may not be assessed a tuition charge if the student has been a resident of this State for at least 12 months before his or her matriculation. (NRS 396.540) Section 1 of this bill expands this exemption from tuition charges by allowing such a student to attend such a school without being assessed a tuition charge if the student has been a resident of this State for at least 12 months before the last day of regular registration for the semester in which the student proposes to attend school.]~~

~~[Existing law establishes the Governor Guinn Millennium Scholarship Program and prescribes eligibility requirements for the continued receipt of such a scholarship. (NRS 396.926, 396.934) Existing law also encourages a student who receives such a scholarship to provide at least 20 hours of community service each year that the student receives a scholarship. (NRS 396.934) Section 2 of this bill requires a student who receives such a scholarship to provide community service each year the student receives a scholarship. Although section 2 does not require a specific number of hours, it continues to encourage the student to provide at least 20 hours of community service each such year.]~~

Existing law authorizes the Governor to employ certain persons to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Economic Development, the Office of Science, Innovation and Technology and the Governor's mansion. (NRS 223.085) Section 4 of this bill additionally authorizes the Governor to employ certain persons to provide an appropriate staff for the Office of the Western Regional Higher Education Compact.

Existing law directs the Governor to execute a compact with certain other states for the purpose of forming a Western Interstate Commission for Higher

Education. (NRS 397.010) The compact requires the Western Interstate Commission for Higher Education to enter into certain contractual agreements with certain institutions offering graduate or professional education in other member states in order to increase the opportunities for residents of member states to obtain graduate or professional degrees. (NRS 397.020) Sections 3 and 5 of this bill create the Office of the Western Regional Higher Education Compact within the Office of the Governor.

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

Section 1. ~~NRS 396.540 is hereby amended to read as follows:~~

~~396.540 1. For the purposes of this section:~~

~~(a) "Bona fide resident" shall be construed in accordance with the provisions of NRS 10.155 and policies established by the Board of Regents, to the extent that those policies do not conflict with any statute. The qualification "bona fide" is intended to ensure that the residence is genuine and established for purposes other than the avoidance of tuition.~~

~~(b) "Matriculation" has the meaning ascribed to it in regulations adopted by the Board of Regents.~~

~~(c) "Tuition charge" means a charge assessed against students who are not residents of Nevada and which is in addition to registration fees or other fees assessed against students who are residents of Nevada.~~

~~2. The Board of Regents may fix a tuition charge for students at all campuses of the System, but tuition charges must not be assessed against:~~

~~(a) All students whose families have been bona fide residents of the State of Nevada for at least 12 months before the matriculation of the student at a university, state college or community college within the System;~~

~~(b) All students whose families reside outside of the State of Nevada, providing such students have themselves been bona fide residents of the State of Nevada for at least 12 months before [their matriculation] *the last day of regular registration* at a university, state college or community college within the System *[:] for the semester in which the student plans to attend;*~~

~~(c) All public school teachers who are employed full time by school districts in the State of Nevada;~~

~~(d) All full time teachers in private elementary, secondary and postsecondary educational institutions in the State of Nevada whose curricula meet the requirements of chapter 394 of NRS;~~

~~(e) Employees of the System who take classes other than during their regular working hours;~~

~~(f) Members of the Armed Forces of the United States who are on active duty and stationed at a military installation in the State of Nevada; and~~

~~(g) Except as otherwise provided in subsection 3, veterans of the Armed Forces of the United States who were honorably discharged within the 2 years immediately preceding the date of matriculation of the veteran at a university, state college or community college within the System.~~

~~3. The Board of Regents may grant more favorable exemptions from tuition charges for veterans of the Armed Forces of the United States who were honorably discharged than the exemption provided pursuant to paragraph (g) of subsection 2, if required for the receipt of federal money.~~

~~4. The Board of Regents may grant exemptions from tuition charges each semester to other worthwhile and deserving students from other states and foreign countries, in a number not to exceed a number equal to 3 percent of the total matriculated enrollment of students for the last preceding fall semester.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 396.934 is hereby amended to read as follows:~~

~~396.934 1. Except as otherwise provided in this section, within the limits of money available in the Trust Fund, a student who is eligible for a Millennium Scholarship is entitled to receive:~~

~~(a) If he or she is enrolled in a community college within the System, including, without limitation, a summer academic term, \$40 per credit for each lower division course and \$60 per credit for each upper division course in which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the community college that are not otherwise satisfied by other grants or scholarships, whichever is less. The Board of Regents shall provide for the designation of upper and lower division courses for the purposes of this paragraph.~~

~~(b) If he or she is enrolled in a state college within the System, including, without limitation, a summer academic term, \$60 per credit for which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the state college that are not otherwise satisfied by other grants or scholarships, whichever is less.~~

~~(c) If he or she is enrolled in another eligible institution, including, without limitation, a summer academic term, \$80 per credit for which the student is enrolled, or the amount of money that is necessary for the student to pay the costs of attending the university that are not otherwise satisfied by other grants or scholarships, whichever is less.~~

~~(d) If he or she is enrolled in more than one eligible institution, including, without limitation, a summer academic term, the amount authorized pursuant to paragraph (a), (b) or (c), or a combination thereof, in accordance with procedures and guidelines established by the Board of Regents.~~

~~↗ In no event may a student who is eligible for a Millennium Scholarship receive more than the cost of 12 semester credits per semester pursuant to this subsection.~~

~~2. No student may be awarded a Millennium Scholarship:~~

~~(a) To pay for remedial courses.~~

~~(b) For a total amount in excess of \$10,000.~~

~~3. A student who receives a Millennium Scholarship shall:~~

~~(a) Make satisfactory academic progress toward a recognized degree or certificate, as determined by the Board of Regents pursuant to subsection 8; and~~

~~—(b) If the student graduated from high school after May 1, 2003, maintain:~~

~~—(1) At least a 2.60 grade point average on a 4.0 grading scale for each semester during the first year of enrollment in the Governor Guinn Millennium Scholarship Program.~~

~~—(2) At least a 2.75 grade point average on a 4.0 grading scale for each semester during the second year of enrollment in the Governor Guinn Millennium Scholarship Program and for each semester during each year of enrollment thereafter.~~

~~—4. A student who receives a Millennium Scholarship [is encouraged to] shall volunteer [at least 20 hours of] to provide community service for this State, a political subdivision of this State or a charitable organization that provides service to a community or the residents of a community in this State during each year in which the student receives a Millennium Scholarship. A student who receives a Millennium Scholarship is encouraged to volunteer at least 20 hours of community service during each year in which the student receives a Millennium Scholarship.~~

~~—5. If a student does not satisfy the requirements of subsection 3 during one semester of enrollment, excluding a summer academic term, he or she is not eligible for the Millennium Scholarship for the succeeding semester of enrollment. If such a student:~~

~~—(a) Subsequently satisfies the requirements of subsection 3 in a semester in which he or she is not eligible for the Millennium Scholarship, the student is eligible for the Millennium Scholarship for the student's next semester of enrollment.~~

~~—(b) Fails a second time to satisfy the requirements of subsection 3 during any subsequent semester, excluding a summer academic term, the student is no longer eligible for a Millennium Scholarship.~~

~~—6. A Millennium Scholarship must be used only:~~

~~—(a) For the payment of registration fees and laboratory fees and expenses;~~

~~—(b) To purchase required textbooks and course materials; and~~

~~—(c) For other costs related to the attendance of the student at the eligible institution.~~

~~—7. The Board of Regents shall certify a list of eligible students to the State Treasurer. The State Treasurer shall disburse a Millennium Scholarship for each semester on behalf of an eligible student directly to the eligible institution in which the student is enrolled, upon certification from the eligible institution of the number of credits for which the student is enrolled, which must meet or exceed the minimum number of credits required for eligibility and certification that the student is in good standing and making satisfactory academic progress toward a recognized degree or certificate, as determined by the Board of Regents pursuant to subsection 8. The Millennium Scholarship must be administered by the eligible institution as other similar scholarships are administered and may be used only for the expenditures authorized pursuant to subsection 6. If a student is enrolled in more than one eligible institution, the Millennium Scholarship must be~~

~~administered by the eligible institution at which the student is enrolled in a program of study leading to a recognized degree or certificate.~~

~~8. The Board of Regents shall establish:~~

~~(a) Criteria for determining whether a student is making satisfactory academic progress toward a recognized degree or certificate for purposes of subsection 7.~~

~~(b) Procedures to ensure that all money from a Millennium Scholarship awarded to a student that is refunded in whole or in part for any reason is refunded to the Trust Fund and not the student.~~

~~(c) Procedures and guidelines for the administration of a Millennium Scholarship for students who are enrolled in more than one eligible institution.] (Deleted by amendment.)~~

Sec. 3. NRS 397.030 is hereby amended to read as follows:

397.030 1. In furtherance of the provisions contained in the Compact, there must be three Commissioners from the State of Nevada, appointed by the Governor ~~[-]~~ *to serve in the Office of the Western Regional Higher Education Compact created by section 5 of this act.*

2. The qualifications and terms of the three Nevada State Commissioners must be in accordance with Article 4 of the Compact. A Nevada State Commissioner shall hold office until his or her successor is appointed and qualified, but the successor's term expires 4 years after the legal date of expiration of the term of his or her predecessor.

3. Any Nevada State Commissioner may be removed from office by the Governor upon charges and after a hearing.

4. The term of any Nevada State Commissioner who ceases to hold the required qualifications terminates when a successor is appointed.

Sec. 4. NRS 223.085 is hereby amended to read as follows:

223.085 1. The Governor may, within the limits of available money, employ such persons as he or she deems necessary to provide an appropriate staff for the Office of the Governor, including, without limitation, the Office of Economic Development, the Office of Science, Innovation and Technology, *the Office of the Western Regional Higher Education Compact* and the Governor's mansion. Any such employees are not in the classified or unclassified service of the State and, except as otherwise provided in NRS 231.043 and 231.047, *and section 5 of this act*, serve at the pleasure of the Governor.

2. The Governor shall:

(a) Determine the salaries and benefits of the persons employed pursuant to subsection 1, within limits of money available for that purpose; and

(b) Adopt such rules and policies as he or she deems appropriate to establish the duties and employment rights of the persons employed pursuant to subsection 1.

3. The Governor may:

(a) Appoint a Chief Information Officer of the State; or

(b) Designate the Administrator as the Chief Information Officer of the State.

➡ If the Administrator is so appointed, the Administrator shall serve as the Chief Information Officer of the State without additional compensation.

4. As used in this section, "Administrator" means the Administrator of the Division of Enterprise Information Technology Services of the Department of Administration.

Sec. 5. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *There is hereby created within the Office of the Governor the Office of the Western Regional Higher Education Compact.*

2. *The Governor shall propose a budget for the Office of the Western Regional Higher Education Compact.*

3. *Employees of the Office of the Western Regional Higher Education Compact are not in the classified or unclassified service of this State and serve at the pleasure of the Governor.*

Sec. 6. This act becomes effective on July 1, 2015.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

Amendment No. 508 to Senate Bill No. 195 retains the existing statute, using the date of "matriculation" for a student to qualify for in-state tuition and encouraging Millennium scholars to provide community service.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 313.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 297.

SUMMARY—Authorizes the governing body of a private school ~~to~~ develop and ~~or a university school for profoundly gifted pupils to provide a~~ program of distance education. (BDR 34-1032)

AN ACT relating to education; authorizing the governing body of a private school or a university school for profoundly gifted pupils to ~~develop and~~ provide a program of distance education; ~~authorizing the governing body of a university school for profoundly gifted pupils to associate and enter into an agreement with the governing body of a private school for the purpose of developing the curriculum of a program of distance education provided by the private school;~~ revising provisions governing apportionments and allowances from the State Distributive School Account to include pupils who are enrolled full-time in a program of distance education provided by a university school for profoundly gifted pupils; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a university school for profoundly gifted pupils and requires each pupil who is enrolled in such a school to be included in the count of pupils in the school district in which the school is located for the purposes of apportionments and allowances from the State Distributive School Account. (NRS 387.1233, 392A.083) Section 1 of this bill requires a pupil who is enrolled full-time in a program of distance education provided by a university school⁰ for profoundly gifted pupils to be included in the count of pupils for purposes of apportionments and allowances from the State Distributive School Account. Section 3 of this bill authorizes the governing body of a university school for profoundly gifted pupils to provide a program of distance education for a pupil who is otherwise eligible to attend the school.

Existing law generally provides for the operation of private educational institutions and establishments in this State. (Chapter 394 of NRS) Section 4 of this bill authorizes the governing body of a private school to ~~develop and~~ provide a program of distance education for a student or prospective student of the private school who is otherwise eligible to attend the private school. ~~[Sections 3 and 4 of this bill authorize the governing body of a university school for profoundly gifted pupils to associate and enter into an agreement with the governing body of a private school for the purpose of developing the curriculum of a program of distance education provided by the private school.]~~ Section 2 of this bill ~~[clarifies]~~ provides that a program of distance education provided by the board of trustees of a school district or the governing body of a charter school does not include a program of distance education ~~[developed and]~~ provided by a private school or a university school for profoundly gifted pupils, in accordance with ~~[section]~~ sections 3 and 4 ~~[,]~~, respectively.

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

Section 1. 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, ~~for~~ a charter school located within that school district *or a university school for profoundly gifted pupils* 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 or subsection 3 of NRS 392.070, 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.

~~[Section 1.]~~ Sec. 1.5. 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.

6. A university school for profoundly gifted pupils is a public school established pursuant to NRS 392A.010 to 392A.110, inclusive ~~[-]~~ , and *section 3 of this act.*

Sec. 2. NRS 388.829 is hereby amended to read as follows:

388.829 1. "Program of distance education" means a program comprised of one or more courses of distance education ~~[-]~~ *that is provided by the board of trustees of a school district or the governing body of a charter school.*

2. ~~The term does not include a program of distance education developed and provided by a private school pursuant to section 4 of this act ~~[-]~~ or a university school for profoundly gifted pupils pursuant to section 3 of this act.~~

Sec. 3. Chapter 392A of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~The governing body of a university school for profoundly gifted pupils may ~~associate and enter into an agreement with the governing body of a private school pursuant to subsection 2 of section 4 of this act for the purpose of developing the curriculum for~~ provide a program of distance education ~~provided by the private school~~ for any pupil or prospective pupil who is otherwise eligible to attend the school.~~

2. As used in this section ~~[-]~~

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

~~(b) "Program" , "program of distance education" means a program comprised of ~~distance education developed and provided by a private school pursuant to section 4~~ one or more courses of ~~this act~~ study for which instruction is delivered by means of video, computer, television or the Internet or other electronic means of communication, or any combination thereof, in such a manner that the person supervising or providing the instruction and the pupil receiving the instruction are separated geographically for a majority of the time during which the instruction is delivered.~~

Sec. 3.5. NRS 392A.040 is hereby amended to read as follows:

392A.040 "University school for profoundly gifted pupils" means a school that:

1. Is located on the campus of a university within the Nevada System of Higher Education;
2. Is operated through a written agreement with the university;
3. Is operated by or is itself a nonprofit corporation that is recognized as exempt pursuant to 26 U.S.C. § 501(c)(3);
4. Demonstrates at least 5 years of successful experience providing educational services to profoundly gifted youth;
5. Provides a full-time alternative program of education, which may include, without limitation, a program of distance education, for profoundly gifted pupils who ~~have~~ :
 - (a) Are residents of this State; and
 - (b) Have been identified as possessing the abilities and skills necessary for advanced academic work, including accelerated middle school, junior high school, high school and early university entrance; and
6. Does not charge tuition to pupils enrolled in the school.

Sec. 4. Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The governing body of a private school may ~~develop and~~ provide a program of distance education for any student or prospective student who is otherwise eligible to attend the private school.*

2. ~~*The governing body of a private school may, for the purpose of developing the curriculum for a program of distance education provided pursuant to subsection 1, associate and enter into an agreement with the governing body of a university school for profoundly gifted pupils.*~~

~~3. As used in this section:~~

~~(a) "Program" , "program of distance education" means a program comprised of one or more courses of study for which instruction is delivered by means of video, computer, television or the Internet or other electronic means of communication, or any combination thereof, in such a manner that the person supervising or providing the instruction and the student receiving the instruction are separated geographically for a majority of the time during which the instruction is delivered.~~

~~(b) "University school for profoundly gifted pupils" has the meaning ascribed to it in NRS 392A.040.~~

Sec. 5. This act becomes effective on July 1, 2015.

Senator Harris moved the adoption of the amendment

Remarks by Senator Harris.

Amendment No. 297 to Senate Bill No. 313 clarifies that the proposed programs are exempt from compliance with certain statutes related to distance education; requires that enrolled students be counted, for purposes of apportionment, in the same way as other students enrolled in distance education programs; removes provisions authorizing a university school and a private school to enter into agreements for developing curriculum; and makes other clarifying changes.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 324.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 409.

SUMMARY—Revises provisions concerning the Department of Transportation. (BDR 35-23)

AN ACT relating to the Department of Transportation; authorizing the Director of the Department to ~~adopt regulations to enforce compliance with the conditions of certain environmental permits;~~ issue an encroachment permit for certain discharges onto a state highway or right-of-way; providing civil ~~and criminal~~ penalties ~~for~~ for an unpermitted discharge onto a state highway or right-of-way or for a violation of an encroachment permit issued by the Director; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This bill authorizes the Director of the Department of Transportation to adopt regulations to enforce compliance with the conditions of an environmental permit issued to the Department by any state or federal agency or any plan or program adopted by the Department as a condition of such a permit. In addition, this bill provides that a person violating such a regulation is guilty of a gross misdemeanor.]~~ Existing law requires a person to obtain from the Director of the Department of Transportation a permit before disturbing or digging up, or performing certain similar acts with respect to, a state highway or right-of-way. (NRS 408.423) Section 4 of this bill prohibits a person from discharging onto a state highway or right-of-way any substance other than storm water that results or could result in the pollution of the waters of this State unless: (1) the Director has issued to the person a valid encroachment permit for the discharge; (2) the discharge is allowed pursuant to a National Pollutant Discharge Elimination System permit; or (3) the discharge is the result of fire-fighting operations. In addition, section 4 requires that a person who discharges a substance onto a state highway or right-of-way without such a permit, or in violation of the terms of the permit, must abate, remove or remediate the discharge. If the person fails to abate, remove or remediate the discharge, the Director may abate, remove or remediate the discharge and charge the person for the costs associated with the abatement, removal or remediation.

Sections 5-10 of this bill provide certain enforcement powers to the Director relating to section 4 and authorize the Director to: (1) enter upon any premises to investigate the source of a discharge; (2) issue orders for compliance to enforce the provisions of section 4; (3) seek injunctive relief in a court of competent jurisdiction to prevent the continuance or occurrence of any act which violates or may violate the provisions of section 4; (4) impose a civil penalty of up to \$25,000 per day for violations of the provisions of section 4; and (5) conduct an independent investigation of any act which violates or may violate the provisions of section 4.

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

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

~~1. The Director, in consultation with the Board, may adopt regulations to enforce compliance with the conditions of any environmental permit issued to the Department by any state or federal agency, or any plan or program adopted by the Department pursuant thereto, including, without limitation, a discharge permit issued pursuant to NRS 445A.475 or a stormwater management program adopted in accordance with the requirements of such a discharge permit.~~

~~2. Regulations adopted pursuant to subsection 1 may include, without limitation, provisions:~~

~~(a) Granting authority to employees of the Department to issue notices of violations, citations and orders to stop work that are related to a violation of the conditions of an environmental permit issued pursuant to NRS 533.463 or 533.504 to the Department, or the provisions of any program or plan of the Department adopted pursuant thereto;~~

~~(b) Establishing processes and procedures for the adjudication of any citation issued in accordance with provisions described in paragraph (a), including, without limitation, administrative hearings and appeals processes; and~~

~~(c) Establishing a schedule of civil penalties for various violations of the conditions of an environmental permit issued to the Department, or the provisions of any program or plan of the Department adopted pursuant thereto.~~

~~3. In addition to any civil penalties imposed pursuant to provisions described in paragraph (c) of subsection 2, the Director may require any person violating the conditions of an environmental permit issued pursuant to NRS 533.463 or 533.504 to the Department, or the provisions of any program or plan of the Department adopted pursuant thereto, to pay any costs associated with the remediation of the violation. If any such costs of remediation are not paid within a reasonable amount of time, the Director may commence a civil action in any court of competent jurisdiction for the recovery of such costs.~~

~~4. A person who violates any regulation adopted pursuant to subsection 1 is guilty of a gross misdemeanor for which the Director may request that the Attorney General institute a criminal prosecution by indictment or information.~~

~~5. The remedies specified in subsections 3 and 4 and any provisions described in paragraph (c) of subsection 2 are cumulative, and the institution of any proceeding or action seeking any one of the remedies or sanctions does not bar any simultaneous or subsequent action or proceeding seeking any other of the remedies or sanctions.~~ ~~7. (Deleted by amendment.)~~

Sec. 2. NRS 405.205 is hereby amended to read as follows:

405.205 A rural electric cooperative which has been formed pursuant to NRS 81.410 to 81.540, inclusive, may erect or bury, and thereafter maintain or operate, power lines, and may permit the maintenance and operation of telephone lines in connection therewith, along public highways, roads, streets and alleys within the area which it holds a certificate of public convenience and necessity to serve. In exercising this right, the cooperative shall not obstruct the natural and proper use of the highway, road, street or alley, and is subject to the requirements of NRS 408.423 ~~[1]~~ and section 4 of this act.

Sec. 3. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 3.5 to 10, inclusive, of this act.

Sec. 3.5. "Discharge" has the meaning ascribed to it in NRS 445A.345.

Sec. 4. 1. No person shall discharge or cause to be discharged upon a state highway or right-of-way any substance that is not composed entirely of storm water and that results or could result in the pollution of the waters of this State, other than a discharge allowed pursuant to a National Pollutant Discharge Elimination System permit or waters used for fire-fighting operations, without a valid encroachment permit issued by the Director pursuant to NRS 408.423, and then only in accordance with the conditions and regulations prescribed by the Director.

2. A person who violates the provisions of subsection 1 shall abate, remove or remediate the discharge in a timely manner.

3. If a person who violates the provisions of subsection 1 fails to abate, remove or remediate the discharge in a timely manner, the Director may abate, remove or remediate the discharge. The abatement, removal or remediation of a discharge pursuant to this subsection gives the Department a right of action to recover:

(a) Any expenses associated with the abatement, removal or remediation;

(b) Attorney's fees, costs and expenses related to the abatement, removal or remediation; and

(c) An amount not to exceed \$750 for each day, commencing on the 6th day after the initial discharge, that the person failed to abate, remove or remediate the discharge.

4. The remedies provided in subsection 3 are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.

5. To enforce the provisions of this section, the Director may cooperate and coordinate with the Division of Environmental Protection of the State Department of Conservation and Natural Resources and the Office of the Attorney General.

6. As used in this section, "pollution" has the meaning ascribed to it in NRS 445A.405.

Sec. 5. To enforce the provisions of section 4 of this act or any permit or order of the Director related thereto, the Director or a designee of the Director may, upon presenting proper credentials:

1. Enter upon any premises upon which any act in violation of section 4 of this act takes place to inspect, investigate, collect data or otherwise document the violation;

2. At reasonable times, have access to and copy any records required to be maintained in association with any permit issued for the purposes of section 4 of this act or with any abatement, removal or remediation of a discharge that violates the provisions of section 4 of this act;

3. Inspect any equipment or method for the monitoring or observation of a discharge; and

4. Have access to and sample any discharge onto the state highway or right-of-way which results directly or indirectly from activities of an owner or operator of a premises where the discharge originates.

Sec. 6. 1. Except as otherwise provided in section 10 of this act, if the Director finds that any person is engaged or is about to engage in any act or practice which violates any permit issued by the Director for the purposes of section 4 of this act, the Director may:

(a) Issue an order for compliance pursuant to section 7 of this act; or

(b) Commence a civil action pursuant to sections 8 and 9 of this act.

2. The remedies provided in subsection 1 are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.

Sec. 7. 1. Except as otherwise provided in section 10 of this act, if the Director finds that any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any permit or order issued by the Director to enforce the provisions of section 4 of this act, the Director or a designee of the Director may issue an order for compliance which:

(a) Specifies the provisions of section 4 of this act, or any permit or order issued by the Director, alleged to be violated or about to be violated;

(b) Indicates the facts alleged which constitute the alleged violation;

(c) Prescribes the necessary corrective action to be taken and a reasonable period for completion of that corrective action; and

(d) Is served upon the person at his or her place of business or, if that place of business is unknown, served upon the person through the post office or at his or her last known address of record.

2. Any order for compliance issued pursuant to subsection 1 is final and is not subject to review unless the person against whom the order is issued, within 30 days after the date on which the order is served, requests by written petition a hearing before the Director.

Sec. 8. 1. Except as otherwise provided in section 10 of this act, the Director may seek injunctive relief in a court of competent jurisdiction to prevent the continuance or occurrence of any act or practice which violates any provision of section 4 of this act, or any permit or order issued pursuant thereto.

2. On a showing by the Director or a designee of the Director that a person is engaged or is about to engage in any act or practice which violates or will violate any rule, regulation or standard or a permit or order issued for the purposes of section 4 of this act, the court may issue, without bond, any prohibitory or mandatory injunctions that the facts may warrant, including, without limitation, a temporary restraining order issued ex parte, or, after notice and an opportunity for a hearing, a preliminary injunction or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction pursuant to subsection 2.

4. A court may require the posting of a sufficient performance bond or other security interest to ensure compliance with the court order within the period prescribed.

5. An injunction issued pursuant to this section does not abrogate and is in addition to any other remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.

Sec. 9. Except as otherwise provided in sections 4 to 10, inclusive, of this act, any person who violates or aids or abets in the violation of any provision of section 4 of this act, or of any permit or order issued pursuant thereto, shall pay a civil penalty of not more than \$25,000 for each day of the violation. A civil penalty imposed pursuant to this section is cumulative and does not abrogate and is in addition to any other remedies and penalties that may exist at law or in equity, including, without limitation, pursuant to sections 4 to 10, inclusive, of this act.

Sec. 10. 1. Except as otherwise provided in subsection 2, before determining whether to issue an order for compliance, commence a civil action or seek injunctive relief pursuant to sections 4 to 10, inclusive, of this act, the Director or the designee of the Director shall, if practicable, conduct an independent investigation of the alleged act or practice for which the Director is making the determination.

2. The Director is not required to conduct an independent investigation pursuant to subsection 1 if:

(a) The determination of the Director to take any action specified in that subsection is based on information that is provided to the Director by the holder of a permit issued for the purposes of section 4 of this act; or

(b) The alleged act or practice:

(1) Occurs on land that is managed or controlled by the United States Department of Defense or Department of Energy; or

(2) Creates an imminent and substantial danger to the public health or the environment.

Sec. 10.5. NRS 408.020 is hereby amended to read as follows:

408.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 408.033 to 408.095, inclusive, unless

~~the context otherwise requires,] and section 3.5 of this act~~ have the meanings ascribed to them in those sections.

Sec. 11. NRS 408.050 is hereby amended to read as follows:

408.050 "Encroachment" means any tower, pole, pole line, wire, pipe, pipeline, fence, billboard, approach road, driveway, stand or building, crop or crops, flora, discharge of any kind or character or any structure which is placed in, upon, under or over any portion of highway rights-of-way.

Sec. 12. NRS 408.172 is hereby amended to read as follows:

408.172 1. Subject to the approval of the Board, the Attorney General shall, immediately upon request by the Board, appoint an attorney at law as the Chief Counsel of the Department, and such assistant attorneys as are necessary. Attorneys so appointed are deputy attorneys general.

2. The Chief Counsel shall act as the attorney and legal adviser of the Department in all actions, proceedings, hearings and all matters relating to the Department and to the powers and duties of its officers.

3. Under the direction of or in the absence of the Chief Counsel, the assistant attorneys may perform any duty required or permitted by law to be performed by the Chief Counsel.

4. The Chief Counsel and assistant attorneys are in the unclassified service of the State.

5. All contracts, instruments and documents executed by the Department must be first approved and endorsed as to legality and form by the Chief Counsel.

6. The Chief Counsel shall act as the attorney and legal advisor of the Department in all actions, proceedings, hearings and enforcement actions related to the provisions of sections 4 to 10, inclusive, of this act.

Sec. 13. NRS 408.175 is hereby amended to read as follows:

408.175 1. The Director shall:

(a) Appoint one Deputy Director who in the absence, inability or failure of the Director has full authority to perform any duty required or permitted by law to be performed by the Director.

(b) Appoint one Deputy Director for southern Nevada whose principal office must be located in an urban area in southern Nevada.

(c) Appoint one Deputy Director with full authority to perform any duty required or permitted by law to be performed by the Director to implement, manage, oversee and enforce any environmental program of the Department.

(d) Employ such engineers, engineering and technical assistants, clerks and other personnel as in the Director's judgment may be necessary to the proper conduct of the Department and to carry out the provisions of this chapter.

2. Except as otherwise provided in NRS 284.143, the Deputy Directors shall devote their entire time and attention to the business of the office and shall not pursue any other business or occupation or hold any other office of profit.

3. The Director may delegate such authority as may be necessary for the Deputy Director appointed pursuant to paragraph (b) of subsection 1 to carry out his or her duties.

Sec. 14. NRS 408.210 is hereby amended to read as follows:

408.210 1. Except as otherwise provided in NRS 484D.655, the Director of the Department of Transportation may restrict the use of, or close, any highway whenever the Director considers the closing or restriction of use necessary:

(a) For the protection of the public.

(b) For the protection of such highway from damage during storms or during construction, reconstruction, improvement or maintenance operations thereon.

(c) To promote economic development or tourism in the best interest of the State or upon the written request of the Executive Director of the Office of Economic Development or the Director of the Department of Tourism and Cultural Affairs.

2. The Director of the Department of Transportation may:

(a) Divide or separate any highway into separate roadways, wherever there is particular danger to the traveling public of collisions between vehicles proceeding in opposite directions or from vehicular turning movements or cross-traffic, by constructing curbs, central dividing sections or other physical dividing lines, or by signs, marks or other devices in or on the highway appropriate to designate the dividing line.

(b) Lay out and construct frontage roads on and along any highway or freeway and divide and separate any such frontage road from the main highway or freeway by means of curbs, physical barriers or by other appropriate devices.

3. ~~[The]~~ *Except as otherwise provided in sections 4 to 10, inclusive, of this act, the* Director may remove from the highways any unlicensed encroachment which is not removed, or the removal of which is not commenced and thereafter diligently prosecuted, within 5 days after personal service of notice and demand upon the owner of the encroachment or the owner's agent. In lieu of personal service upon that person or agent, service of the notice may also be made by registered or certified mail and by posting, for a period of 5 days, a copy of the notice on the encroachment described in the notice. Removal by the Department of the encroachment on the failure of the owner to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit, and in addition thereto the sum of \$100 for each day the encroachment remains beyond 5 days after the service of the notice and demand.

4. If the Director determines that the interests of the Department are not compromised by a proposed or existing encroachment, the Director may issue a license to the owner or the owner's agent permitting an encroachment on the highway. Such a license is revocable and must provide for relocation or removal of the encroachment in the following manner. Upon notice from

the Director to the owner of the encroachment or the owner's agent, the owner or agent may propose a time within which he or she will relocate or remove the encroachment as required. If the Director and the owner or the owner's agent agree upon such a time, the Director shall not himself or herself remove the encroachment unless the owner or the owner's agent has failed to do so within the time agreed. If the Director and the owner or the owner's agent do not agree upon such a time, the Director may remove the encroachment at any time later than 30 days after the service of the original notice upon the owner or the owner's agent. Service of notice may be made in the manner provided by subsection 3. Removal of the encroachment by the Director gives the Department the right of action provided by subsection 3, but the penalty must be computed from the expiration of the agreed period or 30-day period, as the case may be.

Sec. 15. NRS 408.423 is hereby amended to read as follows:

408.423 1. No state highway or right-of-way may be disturbed, dug up, crossed, encroached upon, discharged upon or otherwise used for the laying or re-laying of pipelines, ditches, flumes, sewers, poles, wires, approach roads, driveways, railways or for any other purpose, without the written permit of the Director, and then only in accordance with the conditions and regulations prescribed by the Director. All such work must be done under the supervision and to the satisfaction of the Director. All costs of replacing the highway in as good condition as previous to its being disturbed must be paid by the persons to whom or on whose behalf such permit was given or by the person by whom the work was done.

2. In case of immediate necessity therefor, a city or town may dig up a state highway without a permit from the Director, but in such cases the Director must be first notified and the highway must be replaced forthwith in as good condition as before at the expense of such city or town.

3. The Department shall charge each applicant a reasonable fee for all administrative costs incurred by the Department in acting upon an application for a permit, including costs for the preparation and inspection of a proposed encroachment.

~~{Sec. 2.}~~ *Sec. 16. This act becomes effective on July 1, 2015.*

Senator Hammond moved the adoption of the amendment.

Remarks by Senator Hammond.

Amendment No. 409 to Senate Bill No. 324 proposes to enact statutory authority, rather than regulatory authority, for the Nevada Department of Transportation (NDOT) to impose certain civil penalties and other remedies—such as compliance orders—against any person who is responsible for illicit discharge of water or other materials on an NDOT right-of-way that could result in the pollution of the waters of this State.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 327.

Bill read second time.

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

Amendment No. 451.

SUMMARY—Revises certain provisions governing air ambulances. (BDR 40-1017)

AN ACT relating to air ambulances; providing for the minimum number of attendants and qualifications of those attendants for an air ambulance; ~~amending certain permitting requirements for air ambulances;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the issuance of a permit for the operation of an air ambulance by the Division of Public and Behavioral Health of the Department of Health and Human Services or by the district board of health of a county whose population is 700,000 or more (currently Clark County). (NRS 450B.200) Section 3 of this bill provides for the minimum number of attendants and qualifications for those attendants aboard an air ambulance. Section 5 of this bill revises the training requirements for a licensed physician, registered nurse or licensed physician assistant to be certified as an attendant. Section 6 of this bill authorizes an emergency medical services registered nurse to perform certain procedures. ~~Section 7 of this bill requires that an air ambulance obtain a permit from the health authority, either the Division or a district board of health, in any jurisdiction in which the air ambulance receives a patient.~~

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

Section 1. Chapter 450B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Emergency medical services registered nurse" means a registered nurse who is issued a certificate to serve as an attendant by the State Board of Nursing pursuant to subsection 8 of NRS 450B.160.*

Sec. 3. 1. ~~During~~ Except as otherwise provided in subsection 2, during any period in which an air ambulance is used to provide emergency medical transportation services for which a permit is required, the air ambulance must be staffed with, at a minimum:

(a) One primary attendant who:

(1) Is an emergency medical services registered nurse;

(2) Has at least 5 years of experience as a registered nurse, which includes:

(I) Two years of critical care nursing experience if working on a fixed wing air ambulance; or

(II) Three years of critical care nursing experience if working on a rotary wing air ambulance;

(3) Has successfully completed an air ambulance attendant course which includes didactic and clinical components and is approved or in compliance with requirements set by the board; and

(4) *Has demonstrated proficiency in basic prehospital skills and advance procedures as specified by the board; and*

(b) *One secondary attendant who ~~for~~ meets the same qualifications as a primary attendant pursuant to paragraph (a) or:*

(1) *Is certified as ~~an advanced emergency medical technician or~~ a paramedic;*

(2) *Has at least 3 years of field experience as ~~an advanced emergency medical technician or~~ a paramedic;*

(3) *Has successfully completed an air ambulance attendant course which includes didactic and clinical components and is approved or in compliance with requirements set by the board; and*

(4) *Has demonstrated proficiency in basic prehospital skills and advance procedures as specified by the board.*

2. If, as determined by the pilot and medical director of the air ambulance, the weight of the secondary attendant could compromise the performance of the air ambulance, safety or patient care, an air ambulance providing medical transportation services may be staffed with only a primary attendant as described in paragraph (a) of subsection 1.

3. The board may adopt regulations specifying the acceptable documentation of the requirements set forth in paragraph (a) or (b) of subsection 1.

4. The health authority may issue a letter of endorsement and identification card to an emergency medical services registered nurse or paramedic who satisfies the requirements of paragraph (a) or (b) of subsection 1.

Sec. 4. NRS 450B.020 is hereby amended to read as follows:

450B.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 450B.025 to 450B.110, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 450B.160 is hereby amended to read as follows:

450B.160 1. The health authority may issue licenses to attendants and to firefighters employed by or serving as volunteers with a fire-fighting agency.

2. Each license must be evidenced by a card issued to the holder of the license, is valid for a period not to exceed 2 years and is renewable.

3. An applicant for a license must file with the health authority:

(a) A current, valid certificate evidencing the applicant's successful completion of a program of training as an emergency medical technician, advanced emergency medical technician or paramedic, if the applicant is applying for a license as an attendant, or, if a volunteer attendant, at a level of skill determined by the board.

(b) A current valid certificate evidencing the applicant's successful completion of a program of training as an emergency medical technician, advanced emergency medical technician or paramedic, if the applicant is applying for a license as a firefighter with a fire-fighting agency.

(c) A signed statement showing:

- (1) The name and address of the applicant;
- (2) The name and address of the employer of the applicant; and
- (3) A description of the applicant's duties.

(d) Such other certificates for training and such other items as the board may specify.

4. The board shall adopt such regulations as it determines are necessary for the issuance, suspension, revocation and renewal of licenses.

5. Each operator of an ambulance or air ambulance and each fire-fighting agency shall annually file with the health authority a complete list of the licensed persons in its service.

6. Licensed physicians, registered nurses and licensed physician assistants may serve as attendants without being licensed under the provisions of this section. A registered nurse who performs emergency care in an ambulance or air ambulance shall perform the care in accordance with the regulations of the State Board of Nursing. A licensed physician assistant who performs emergency care in an ambulance or air ambulance shall perform the care in accordance with the regulations of the Board of Medical Examiners.

7. Each licensed physician, registered nurse and licensed physician assistant who serves as an attendant must have current certification of completion of training in:

(a) Advanced life-support procedures for patients who require cardiac care;

(b) Life-support procedures for pediatric patients who require cardiac care; ~~for~~ and

(c) Life-support procedures for patients with trauma that are administered before the arrival of those patients at a hospital.

➡ The certification must be issued by the Board of Medical Examiners for a physician or licensed physician assistant or by the State Board of Nursing for a registered nurse.

8. The Board of Medical Examiners and the State Board of Nursing shall issue a certificate pursuant to subsection 7 if the licensed physician, licensed physician assistant or registered nurse attends:

(a) A course offered by a national organization which is nationally recognized for issuing such certification;

(b) Training conducted by the operator of an ambulance or air ambulance; or

(c) Any other course or training,

➡ approved by the Board of Medical Examiners or the State Board of Nursing, whichever is issuing the certification. ~~[The Board of Medical Examiners and the State Board of Nursing may require certification of training in all three areas set forth in subsection 7 for a licensed physician, licensed physician assistant or registered nurse who primarily serves as an attendant in a county whose population is 700,000 or more.]~~

Sec. 6. NRS 450B.197 is hereby amended to read as follows:

450B.197 An attendant or a firefighter who is a paramedic *or emergency medical services registered nurse* may perform any procedure and administer any drug:

1. Approved by regulation of the board; or
2. Authorized pursuant to NRS 450B.1975, if the attendant or firefighter who is a paramedic has obtained an endorsement pursuant to that section.

Sec. 7. ~~NRS 450B.200 is hereby amended to read as follows:~~

~~450B.200 1. The health authority may issue a permit for the operation of an ambulance, an air ambulance or a vehicle of a fire fighting agency at the scene of an emergency.~~

~~2. Each permit must be evidenced by a card issued to the holder of the permit.~~

~~3. No permit may be issued unless the applicant is qualified pursuant to the regulations of the board.~~

~~4. An application for a permit must be made upon forms prescribed by the board and in accordance with procedures established by the board, and must contain the following:~~

~~(a) The name and address of the owner of the ambulance or air ambulance or of the fire fighting agency;~~

~~(b) The name under which the applicant is doing business or proposes to do business, if applicable;~~

~~(c) A description of each ambulance, air ambulance or vehicle of a fire fighting agency, including the make, year of manufacture and chassis number, and the color scheme, insignie, name, monogram or other distinguishing characteristics to be used to designate the applicant's ambulance, air ambulance or vehicle;~~

~~(d) The location and description of the places from which the ambulance, air ambulance or fire fighting agency intends to operate; and~~

~~(e) Such other information as the board deems reasonable and necessary to a fair determination of compliance with the provisions of this chapter.~~

~~5. The board shall establish a reasonable fee for annual permits.~~

~~6. All permits expire on July 1 following the date of issue, and are renewable annually thereafter upon payment of the fee required by subsection 5 at least 30 days before the expiration date.~~

~~7. The health authority shall:~~

~~(a) Revoke, suspend or refuse to renew any permit issued pursuant to this section for violation of any provision of this chapter or of any regulation adopted by the board; or~~

~~(b) Bring an action in any court for violation of this chapter or the regulations adopted pursuant to this chapter,~~

~~only after the holder of a permit is afforded an opportunity for a public hearing pursuant to regulations adopted by the board.~~

~~8. The health authority may suspend a permit if the holder is using an ambulance, air ambulance or vehicle of a fire fighting agency which does not~~

~~meet the minimum requirements for equipment as established by the board pursuant to this chapter.~~

~~9. In determining whether to issue a permit for the operation of an air ambulance pursuant to this section, the health authority:~~

~~(a) Except as otherwise provided in paragraph (b), may consider the medical aspects of the operation of an air ambulance, including, without limitation, aspects related to patient care; and~~

~~(b) Shall not consider economic factors, including, without limitation, factors related to the prices, routes or nonmedical services of an air ambulance.~~

~~10. The issuance of a permit pursuant to this section or NRS 450B.210 does not authorize any person or governmental entity to provide those services or to operate any ambulance, air ambulance or vehicle of a fire fighting agency not in conformity with any ordinance or regulation enacted by any county, municipality or special purpose district.~~

~~11. [A] Except as otherwise provided in subsection 12, a permit issued pursuant to this section is valid throughout the State, whether issued by the Division or a district board of health. An ambulance, air ambulance or vehicle of a fire fighting agency which has received a permit from the district board of health in a county whose population is 700,000 or more is not required to obtain a permit from the Division, even if the ambulance, air ambulance or vehicle of a fire fighting agency has routine operations outside the county.~~

~~12. An air ambulance receiving a patient in a county whose population is 700,000 or more must obtain a permit from the district board of health in that county. An air ambulance receiving a patient in any other county must obtain a permit from the Division.~~

~~13. The Division shall maintain a central registry of all permits issued pursuant to this section, whether issued by the Division or a district board of health.~~

~~[13.] 14. The board shall adopt such regulations as are necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 8. This act becomes effective on ~~July 1, 2015.~~ January 1, 2016.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 451 to Senate Bill No. 327: 1) provides that the qualifications for the secondary attendant may be the same qualifications as the primary attendant; 2) specifies that an air ambulance may be staffed by one primary attendant if the weight of the secondary attendant could compromise the performance of the air ambulance, safety or patient care; 3) specifies that a health authority may issue a letter of endorsement and identification card to an emergency medical services registered nurse or paramedic who satisfies the requirements to be a primary or secondary attendant; and 4) deletes the requirement that an air ambulance obtain a permit from the health authority, either the Division or a district board of health, in any jurisdiction in which the air ambulance receives a patient and retains the current air ambulance permitting structure.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 390.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 298.

SUMMARY—Revises provisions relating to charter schools. (BDR 34-78)

AN ACT relating to education; revising provisions governing the preferences for enrollment in a charter school by authorizing a preference for a pupil who is enrolled in a public school of a school district that is over its intended capacity for enrollment by a certain percentage ~~and providing that the Department of Education shall~~ and for a pupil who is enrolled in certain underperforming public schools; requiring each school district to post a list of each public school of the school district that is over its intended capacity for enrollment, if any; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the parent or guardian of a child may submit an application for the child's enrollment in a charter school. A charter school is required to enroll children in the order in which the applications are received, however before a charter school enrolls other children, the charter school may enroll a child who: (1) is a sibling of a pupil currently enrolled in the charter school; (2) was enrolled, free of charge and on the basis of a lottery system, in a prekindergarten program at the charter school or other early childhood program affiliated with the charter school; (3) is a child of a person who is an employee of the charter school, a member of the committee to form the charter school or a member of the governing body of the charter school; (4) is in a particular at-risk category served by the charter school; or (5) resides within 2 miles of the charter school if the charter school is located in an area that the sponsor of the charter school determines includes a high percentage of children who are at risk. This bill expands the preferences for enrollment and allows a charter school to give a preference in enrollment for a child who, at the time of submission of his or her application ~~is~~ is enrolled in a public school of a school district : (1) with an enrollment that is more than 25 percent ~~of~~ over the school's intended capacity ~~is~~ ; or (2) that received an annual rating established as one of the two lowest ratings possible indicating underperformance, as determined by the Department of Education pursuant to the statewide system of accountability for public schools in the preceding school year. This bill provides that if a charter school gives preference to pupils who are enrolled in such public schools, the charter school must enroll such pupils who reside within 2 miles of the charter school before enrolling other such pupils. This bill also provides that ~~the Department of Education~~ each school district is required to maintain and post a list of each public school of the school district that is over its intended capacity for enrollment, if any, and indicate on the list by what percentage each school is over capacity.

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

Section 1. NRS 386.580 is hereby amended to read as follows:

386.580 1. An application for enrollment in a charter school may be submitted to the governing body of the charter school by the parent or legal guardian of any child who resides in this State. Except as otherwise provided in this subsection and subsection 2, a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial composition of pupils who attend public schools in the zone in which the charter school is located. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which the charter school is located before enrolling pupils who reside outside the school district. Except as otherwise provided in subsection 2, if more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

2. Before a charter school enrolls pupils who are eligible for enrollment, a charter school may enroll a child who:

(a) Is a sibling of a pupil who is currently enrolled in the charter school. ~~or~~

(b) Was enrolled, free of charge and on the basis of a lottery system, in a prekindergarten program at the charter school or any other early childhood educational program affiliated with the charter school. ~~or~~

(c) Is a child of a person who is:

(1) Employed by the charter school;

(2) A member of the committee to form the charter school; or

(3) A member of the governing body of the charter school. ~~or~~

(d) Is in a particular category of at-risk pupils and the child meets the eligibility for enrollment prescribed by the charter school for that particular category. ~~or~~

(e) *At the time his or her application is submitted, is enrolled in a public school of a school district with an enrollment that is more than 25 percent ~~off~~ over the public school's intended capacity, as reported on the list maintained by the ~~Department~~ school district pursuant to subsection 9. ~~or~~ If a charter school enrolls pupils who are enrolled in such a public school before enrolling other pupils who are eligible for enrollment, the charter school must enroll such pupils who reside within 2 miles of the charter school before enrolling other such pupils.*

(f) At the time his or her application is submitted, is enrolled in a public school that received an annual rating established as one of the two lowest ratings possible indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools for the immediately preceding school year. If a charter school enrolls pupils who are enrolled in such a public school before enrolling other pupils who are eligible for enrollment, the charter school must enroll such pupils who reside within 2 miles of the charter school before enrolling other such pupils.

(g) Resides within the school district and within 2 miles of the charter school if the charter school is located in an area that the sponsor of the charter school determines includes a high percentage of children who are at risk. If space is available after the charter school enrolls pupils pursuant to this paragraph, the charter school may enroll children who reside outside the school district but within 2 miles of the charter school if the charter school is located within an area that the sponsor determines includes a high percentage of children who are at risk.

➔ If more pupils described in this subsection who are eligible apply for enrollment than the number of spaces available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

3. Except as otherwise provided in subsection 8, a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

- (a) Race;
- (b) Gender;
- (c) Religion;
- (d) Ethnicity; or
- (e) Disability,

➔ of a pupil.

4. If the governing body of a charter school determines that the charter school is unable to provide an appropriate special education program and related services for a particular disability of a pupil who is enrolled in the charter school, the governing body may request that the board of trustees of the school district of the county in which the pupil resides transfer that pupil to an appropriate school.

5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child, the governing body of the charter school shall authorize the child to participate in a class that is not otherwise available to the child at his or her school or homeschool or participate in an extracurricular activity at the charter school if:

- (a) Space for the child in the class or extracurricular activity is available;

(b) The parent or legal guardian demonstrates to the satisfaction of the governing body that the child is qualified to participate in the class or extracurricular activity; and

(c) The child is a homeschooled child and a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to NRS 392.705.

➔ If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity pursuant to this subsection, the governing body is not required to provide transportation for the child to attend the class or activity. A charter school shall not authorize such a child to participate in a class or activity through a program of distance education provided by the charter school pursuant to NRS 388.820 to 388.874, inclusive.

6. The governing body of a charter school may revoke its approval for a child to participate in a class or extracurricular activity at a charter school pursuant to subsection 5 if the governing body determines that the child has failed to comply with applicable statutes, or applicable rules and regulations. If the governing body so revokes its approval, neither the governing body nor the charter school is liable for any damages relating to the denial of services to the child.

7. The governing body of a charter school may, before authorizing a homeschooled child to participate in a class or extracurricular activity pursuant to subsection 5, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

8. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:

(a) With disabilities;

(b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or

(c) Who are at risk.

➔ If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

9. ~~[The Department]~~ Each school district shall create and maintain a list which specifies for each public school ~~for other than a charter school~~ of the school district, the maximum enrollment capacity for each school, the actual number of pupils enrolled at each school and the percentage by which enrollment at each school exceeds the intended enrollment capacity, if applicable. Each school district shall provide any information required by the Department to prepare the list required by this subsection. The Department shall post the list on ~~its~~ the Internet website maintained by the

school district as soon as practicable after the count of pupils is completed pursuant to NRS 387.1233 but not later than November 1 of each year.

Sec. 2. This act becomes effective on July 1, 2015.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment to Senate Bill No. 390 includes an additional enrollment preference for students attending a school that is rated one or two stars under the Nevada School Performance Framework; offers both enrollment preferences, first to children residing within two miles of the school and then, to all such children; and requires school districts, instead of the Department of Education, to post the school list as prescribed in the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 404.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 413.

SUMMARY—Makes certain changes concerning registration of mopeds. (BDR 43-1016)

AN ACT relating to motor vehicles; providing for the registration of mopeds; requiring a fee for such registration; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain motor-driven cycles and scooters are considered mopeds if the engine produces not more than 2 gross brake horsepower, has a displacement of not more than 50 cubic centimeters or produces not more than 1500 watts final output, and is not capable of exceeding 30 miles per hour on a flat surface. (NRS 482.069) Such a moped is not required to be registered with the Department of Motor Vehicles and the owner or operator is not required to provide liability insurance. (NRS 482.210, 485.185) Section 1 of this bill requires the owner of a moped to register the moped once with the Department. The owner must bring the moped to the Department for an inspection to verify that the moped meets the definition of a moped. The fee for registration is \$33, the same as that for a motorcycle. There is also a license plate fee and an inspection fee, and the owner must pay for 1 year of the governmental services tax based on the value of the moped at the time of registration. A moped registration is valid until the owner transfers the ownership of the moped or cancels the registration and surrenders the license plate to the Department. Section 3 of this bill removes the exemption of mopeds from the requirement to register a motor vehicle, trailer or semitrailer intended to be operated upon any highway in this State. Existing law requires the owner or operator of any motor vehicle which is registered or required to be registered to maintain liability insurance. (NRS 485.185) Section 14 of this bill exempts mopeds from the requirement to maintain liability insurance. Existing law makes

failure to register a vehicle which is required to be registered a misdemeanor. (NRS 482.555)

Section 5 of this bill requires the Department to issue a license plate to the owner of a moped upon registration of the moped. ~~[Section 11 of this bill imposes a fee of \$33 to register a moped, the same fee imposed for the registration of a motorcycle. (NRS 482.480)]~~ Section 6 of this bill requires that the license plate for a moped be distinct in appearance from the license plate for a motorcycle. Sections 9 and 13 of this bill make provisions that allow disabled vehicle owners to obtain and use special license plates and parking stickers applicable to mopeds. (NRS 482.384, 484B.467) Sections 15.2-15.6 of this bill provide for the calculation and imposition of the 1 year of governmental services tax that must be paid upon the registration of a moped. (NRS 371.040, 371.060, 371.070) Section 15.8 of this bill exempts mopeds from the requirements for emissions testing of certain vehicles. (NRS 445B.760)

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

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

1. The owner of a moped shall, before the moped may be operated upon any highway in this State, apply to the Department for and obtain registration thereof. The application must be made upon the appropriate form as prescribed by the Department.

2. An application for the registration of a moped pursuant to this section must include:

(a) The signature and residential address of the owner of the moped.

(b) The owner's declaration of the county where he or she intends the moped to be based, unless the moped is deemed to have no base. The Department shall use this declaration to determine the county to which the governmental services tax is to be paid.

(c) A brief description of the moped to be registered, including the name of the maker, the engine, identification or serial number, whether new or used, and, upon the registration of a new moped, the date of sale by the manufacturer or franchised and licensed dealer in this State for the make to be registered to the person first purchasing or operating the moped.

(d) Proof of ownership satisfactory to the Department.

3. An application for the registration of a moped pursuant to subsection 2 must be accompanied by:

(a) The registration fee required pursuant to NRS 482.480.

(b) The governmental services tax imposed pursuant to chapter 371 of NRS, as provided in NRS 482.260.

(c) The fees for a license plate and an inspection required pursuant to this section.

4. An applicant for the registration of a moped pursuant to this section must allow the Department to inspect the moped for verification that the

moped meets the definition of "moped" as provided in NRS 482.069. The Department may by regulation establish a fee for such an inspection.

5. As soon as practicable after receiving the application and fees required by this section and conducting the inspection required by this section, the Department shall issue a license plate and certificate of registration to the owner of the moped.

6. The fee for the issuance of a license plate pursuant to this section is \$5, which must be allocated to the Revolving Account for the Issuance of Special License Plates, created by NRS 482.1805, to defray the costs of manufacturing license plates pursuant to this section.

7. The registration issued pursuant to this section is not renewable or transferable, and a moped that is registered pursuant to this section is registered until the date on which the owner of the moped:

(a) Transfers the ownership of the moped; or
(b) Cancels the registration of the moped and surrenders the license plate to the Department.

8. The Department may, upon proof of ownership satisfactory to it, issue a certificate of title before the registration of a moped pursuant to this section. A certificate of title issued pursuant to this subsection is valid until cancelled by the Department upon the transfer of interest therein.

~~{Section 1.}~~ Sec. 1.5. NRS 482.087 is hereby amended to read as follows:

482.087 "Passenger car" means a motor vehicle designed for carrying 10 persons or less, except a motorcycle, an electric bicycle or ~~{motor-driven cycle.}~~ a moped.

Sec. 2. NRS 482.1825 is hereby amended to read as follows:

482.1825 1. Except as otherwise provided in subsection 3, any voluntary contributions collected pursuant to subsection ~~{11}~~ 12 of NRS 482.480 must be distributed to each county based on the county of registration of the vehicle for which the contribution was made, to be used as provided in NRS 244.2643, 277A.285 or 403.575, as applicable. The Department shall remit monthly the contributions directly:

(a) In a county in which a regional transportation commission exists, to the regional transportation commission.

(b) In a county whose population is 100,000 or more and in which a regional transportation commission does not exist, to the board of county commissioners.

(c) In a county whose population is less than 100,000 and in which a regional transportation commission does not exist, to the board of county highway commissioners created pursuant to NRS 403.010.

2. The Department shall certify monthly to the State Board of Examiners the amount of the voluntary contributions collected pursuant to subsection ~~{11}~~ 12 of NRS 482.480 for each county by the Department and its agents during the preceding month, and that the money has been distributed as provided in this section.

3. The Department shall deduct and withhold 1 percent of the contributions collected pursuant to subsection 1 to reimburse the Department for its expenses in collecting and distributing the contributions.

4. As used in this section, "regional transportation commission" means a regional transportation commission created and organized in accordance with chapter 277A of NRS.

Sec. 2.5. NRS 482.206 is hereby amended to read as follows:

482.206 1. Except as otherwise provided in this section and NRS 482.2065, every motor vehicle, except for a motor vehicle that is registered pursuant to the provisions of NRS 706.801 to 706.861, inclusive, and except for a full trailer or semitrailer that is registered pursuant to subsection 3 of NRS 482.483 ~~or~~ or a moped registered pursuant to section 1 of this act, must be registered for a period of 12 consecutive months beginning the day after the first registration by the owner in this State.

2. Except as otherwise provided in ~~subsection~~ subsections 7 and 8 and NRS 482.2065, every vehicle registered by an agent of the Department or a registered dealer must be registered for 12 consecutive months beginning the first day of the month after the first registration by the owner in this State.

3. Except as otherwise provided in subsection 7 and NRS 482.2065, a vehicle which must be registered through the Motor Carrier Division of the Department, or a motor vehicle which has a declared gross weight in excess of 26,000 pounds, must be registered for a period of 12 consecutive months beginning on the date established by the Department by regulation.

4. Upon the application of the owner of a fleet of vehicles, the Director may permit the owner to register the fleet on the basis of a calendar year.

5. Except as otherwise provided in subsections 6 ~~and~~ 7 and 8, when the registration of any vehicle is transferred pursuant to NRS 482.399, the expiration date of each regular license plate, special license plate or substitute decal must, at the time of the transfer of registration, be advanced for a period of 12 consecutive months beginning:

(a) The first day of the month after the transfer, if the vehicle is transferred by an agent of the Department; or

(b) The day after the transfer in all other cases,
➔ and a credit on the portion of the fee for registration and the governmental services tax attributable to the remainder of the current period of registration must be allowed pursuant to the applicable provisions of NRS 482.399.

6. When the registration of any trailer that is registered for a 3-year period pursuant to NRS 482.2065 is transferred pursuant to NRS 482.399, the expiration date of each license plate or substitute decal must, at the time of the transfer of the registration, be advanced, if applicable pursuant to NRS 482.2065, for a period of 3 consecutive years beginning:

(a) The first day of the month after the transfer, if the trailer is transferred by an agent of the Department; or

(b) The day after the transfer in all other cases,

➡ and a credit on the portion of the fee for registration and the governmental services tax attributable to the remainder of the current period of registration must be allowed pursuant to the applicable provisions of NRS 482.399.

7. A full trailer or semitrailer that is registered pursuant to subsection 3 of NRS 482.483 is registered until the date on which the owner of the full trailer or semitrailer:

- (a) Transfers the ownership of the full trailer or semitrailer; or
- (b) Cancels the registration of the full trailer or semitrailer and surrenders the license plates to the Department.

8. A moped that is registered pursuant to section 1 of this act is registered until the date on which the owner of the moped:

- (a) Transfers the ownership of the moped; or
- (b) Cancels the registration of the moped and surrenders the license plate to the Department.

Sec. 3. NRS 482.210 is hereby amended to read as follows:

482.210 1. The provisions of this chapter requiring the registration of certain vehicles do not apply to:

- (a) Special mobile equipment.
- (b) Implements of husbandry temporarily drawn, moved or otherwise propelled upon the highways.
- (c) Any mobile home or commercial coach subject to the provisions of chapter 489 of NRS.
- (d) Electric bicycles.
- (e) Golf carts which are:

(1) Traveling upon highways properly designated by the appropriate city or county as permissible for the operation of golf carts; and

(2) Operating pursuant to a permit issued pursuant to this chapter.

(f) ~~Mopeds.~~
~~(g)~~ Towable tools or equipment as defined in NRS 484D.055.

~~(h)~~ (g) Any motorized conveyance for a wheelchair, whose operator is a person with a disability who is unable to walk about.

2. For the purposes of this section, "motorized conveyance for a wheelchair" means a vehicle which:

- (a) Can carry a wheelchair;
- (b) Is propelled by an engine which produces not more than 3 gross brake horsepower, has a displacement of not more than 50 cubic centimeters or produces not more than 2250 watts final output;
- (c) Is designed to travel on not more than three wheels; and
- (d) Can reach a speed of not more than 30 miles per hour on a flat surface with not more than a grade of 1 percent in any direction.

➡ The term does not include a tractor.

Sec. 3.3. NRS 482.215 is hereby amended to read as follows:

482.215 1. ~~(A)~~ Except as otherwise provided in section 1 of this act, all applications for registration, except applications for renewal of registration, must be made as provided in this section.

2. Except as otherwise provided in NRS 482.294, applications for all registrations, except renewals of registration, must be made in person, if practicable, to any office or agent of the Department or to a registered dealer.

3. Each application must be made upon the appropriate form furnished by the Department and contain:

(a) The signature of the owner, except as otherwise provided in subsection 2 of NRS 482.294, if applicable.

(b) The owner's residential address.

(c) The owner's declaration of the county where he or she intends the vehicle to be based, unless the vehicle is deemed to have no base. The Department shall use this declaration to determine the county to which the governmental services tax is to be paid.

(d) A brief description of the vehicle to be registered, including the name of the maker, the engine, identification or serial number, whether new or used, and the last license number, if known, and the state in which it was issued, and upon the registration of a new vehicle, the date of sale by the manufacturer or franchised and licensed dealer in this State for the make to be registered to the person first purchasing or operating the vehicle.

(e) Except as otherwise provided in this paragraph, if the applicant is not an owner of a fleet of vehicles or a person described in subsection 5:

(1) Proof satisfactory to the Department or registered dealer that the applicant carries insurance on the vehicle 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 as required by NRS 485.185; and

(2) A declaration signed by the applicant that he or she will maintain the insurance required by NRS 485.185 during the period of registration. If the application is submitted by electronic means pursuant to NRS 482.294, the applicant is not required to sign the declaration required by this subparagraph.

(f) If the applicant is an owner of a fleet of vehicles or a person described in subsection 5, evidence of insurance 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 as required by NRS 485.185:

(1) In the form of a certificate of insurance on a form approved by the Commissioner of Insurance;

(2) In the form of a card issued pursuant to NRS 690B.023 which identifies the vehicle or the registered owner of the vehicle; or

(3) In another form satisfactory to the Department.

➡ The Department may file that evidence, return it to the applicant or otherwise dispose of it.

(g) If required, evidence of the applicant's compliance with controls over emission.

4. The application must contain such other information as is required by the Department or registered dealer and must be accompanied by proof of ownership satisfactory to the Department.

5. For purposes of the evidence required by paragraph (f) of subsection 3:

(a) Vehicles which are subject to the fee for a license and the requirements of registration of the Interstate Highway User Fee Apportionment Act, and which are based in this State, may be declared as a fleet by the registered owner thereof on his or her original application for or application for renewal of a proportional registration. The owner may file a single certificate of insurance covering that fleet.

(b) Other fleets composed of 10 or more vehicles based in this State or vehicles insured under a blanket policy which does not identify individual vehicles may each be declared annually as a fleet by the registered owner thereof for the purposes of an application for his or her original or any renewed registration. The owner may file a single certificate of insurance covering that fleet.

(c) A person who qualifies as a self-insurer pursuant to the provisions of NRS 485.380 may file a copy of his or her certificate of self-insurance.

(d) A person who qualifies for an operator's policy of liability insurance pursuant to the provisions of NRS 485.186 and 485.3091 may file evidence of that insurance.

Sec. 3.7. NRS 482.216 is hereby amended to read as follows:

482.216 1. ~~Upon~~ Except as otherwise provided in section 1 of this act, upon the request of a new vehicle dealer, the Department may authorize the new vehicle dealer to:

(a) Accept applications for the registration of the new motor vehicles he or she sells and the related fees and taxes;

(b) Issue certificates of registration to applicants who satisfy the requirements of this chapter; and

(c) Accept applications for the transfer of registration pursuant to NRS 482.399 if the applicant purchased from the new vehicle dealer a new vehicle to which the registration is to be transferred.

2. A new vehicle dealer who is authorized to issue certificates of registration pursuant to subsection 1 shall:

(a) Transmit the applications received to the Department within the period prescribed by the Department;

(b) Transmit the fees collected from the applicants and properly account for them within the period prescribed by the Department;

(c) Comply with the regulations adopted pursuant to subsection ~~4.1~~ 5; and

(d) Bear any cost of equipment which is necessary to issue certificates of registration, including any computer hardware or software.

3. A new vehicle dealer who is authorized to issue certificates of registration pursuant to subsection 1 shall not:

(a) Charge any additional fee for the performance of those services;

(b) Receive compensation from the Department for the performance of those services;

(c) Accept applications for the renewal of registration of a motor vehicle; or

(d) Accept an application for the registration of a motor vehicle if the applicant wishes to:

(1) Obtain special license plates pursuant to NRS 482.3667 to 482.3823, inclusive; or

(2) Claim the exemption from the governmental services tax provided pursuant to NRS 361.1565 to veterans and their relations.

4. The provisions of this section do not apply to the registration of a moped pursuant to section 1 of this act.

5. The Director shall adopt such regulations as are necessary to carry out the provisions of this section. The regulations adopted pursuant to this subsection must provide for:

(a) The expedient and secure issuance of license plates and decals by the Department; and

(b) The withdrawal of the authority granted to a new vehicle dealer pursuant to subsection 1 if that dealer fails to comply with the regulations adopted by the Department.

Sec. 4. NRS 482.255 is hereby amended to read as follows:

482.255 1. Upon receipt of a certificate of registration, the owner shall place it or a legible copy in the vehicle for which it is issued and keep it in the vehicle. If the vehicle is a motorcycle, *moped*, trailer or semitrailer, the owner shall carry the certificate in the tool bag or other convenient receptacle attached to the vehicle.

2. The owner or operator of a motor vehicle shall, upon demand, surrender the certificate of registration or the copy for examination to any peace officer, including a constable of the township in which the motor vehicle is located or a justice of the peace or a deputy of the Department.

3. No person charged with violating this section may be convicted if the person produces in court a certificate of registration which was previously issued to him or her and was valid at the time of the demand.

Sec. 4.5. NRS 482.260 is hereby amended to read as follows:

482.260 1. When registering a vehicle, the Department and its agents or a registered dealer shall:

(a) Collect the fees for license plates and registration as provided for in this chapter.

(b) Collect the governmental services tax on the vehicle, as agent for the State and for the county where the applicant intends to base the vehicle for the period of registration, unless the vehicle is deemed to have no base.

(c) Collect the applicable taxes imposed pursuant to chapters 372, 374, 377 and 377A of NRS.

(d) Issue a certificate of registration.

(e) If the registration is performed by the Department, issue the regular license plate or plates.

(f) If the registration is performed by a registered dealer, provide information to the owner regarding the manner in which the regular license plate or plates will be made available to the owner.

2. Upon proof of ownership satisfactory to the Director, the Director shall cause to be issued a certificate of title as provided in this chapter.

3. Except as otherwise provided in NRS 371.070 and subsections 6, ~~and 7~~, ~~and 8~~, every vehicle being registered for the first time in Nevada must be taxed for the purposes of the governmental services tax for a 12-month period.

4. The Department shall deduct and withhold 2 percent of the taxes collected pursuant to paragraph (c) of subsection 1 and remit the remainder to the Department of Taxation.

5. A registered dealer shall forward all fees and taxes collected for the registration of vehicles to the Department.

6. A trailer being registered pursuant to NRS 482.2065 must be taxed for the purposes of the governmental services tax for a 3-year period.

7. A full trailer or semitrailer being registered pursuant to subsection 3 of NRS 482.483 must be taxed for the purposes of the governmental services tax in the amount of \$86. The governmental services tax paid pursuant to this subsection is nontransferable and nonrefundable.

8. A moped being registered pursuant to section 1 of this act must be taxed for the purposes of the governmental services tax for only the 12-month period following the registration. The governmental services tax paid pursuant to this subsection is nontransferable and nonrefundable.

Sec. 5. NRS 482.265 is hereby amended to read as follows:

482.265 1. The Department shall furnish to every owner whose vehicle is registered two license plates for a motor vehicle other than a motorcycle *or moped* and one license plate for all other vehicles required to be registered hereunder. ~~Upon~~ Except as otherwise provided in section 1 of this act, upon renewal of registration, the Department may issue one or more license plate stickers, tabs or other suitable devices in lieu of new license plates.

2. The Director shall have the authority to require the return to the Department of all number plates upon termination of the lawful use thereof by the owner under this chapter.

3. Except as otherwise specifically provided by statute, for the issuance of each special license plate authorized pursuant to this chapter:

(a) The fee to be received by the Department for the initial issuance of the special license plate is \$35, exclusive of any additional fee which may be added to generate funds for a particular cause or charitable organization;

(b) The fee to be received by the Department for the renewal of the special license plate is \$10, exclusive of any additional fee which may be added to generate financial support for a particular cause or charitable organization; and

(c) The Department shall not design, prepare or issue a special license plate unless, within 4 years after the date on which the measure authorizing the issuance becomes effective, it receives at least 250 applications for the issuance of that plate.

4. The provisions of subsection 3 do not apply to NRS 482.37901.

Sec. 6. NRS 482.272 is hereby amended to read as follows:

482.272 1. Each license plate for a motorcycle *or moped* may contain a number of characters, including numbers and letters, as determined necessary by the Director. Only one plate may be issued for a motorcycle ~~[.]~~ *or moped*.

2. The Department shall ensure that the license plate for a moped is distinct in appearance from the license plate for a motorcycle. Such distinction may be provided by, without limitation, the size, color or design of the plate. A license plate produced pursuant to this subsection is not required to have displayed upon it the month and year the registration expires.

Sec. 7. NRS 482.275 is hereby amended to read as follows:

482.275 1. The license plates for a motor vehicle other than a motorcycle, *moped* or motor vehicle being transported by a licensed vehicle transporter must be attached thereto, one in the rear and, except as otherwise provided in subsection 2, one in the front. The license plate issued for all other vehicles required to be registered must be attached to the rear of the vehicle. The license plates must be so displayed during the current calendar year or registration period.

2. If the motor vehicle was not manufactured to include a bracket, device or other contrivance to display and secure a front license plate, and if the manufacturer of the motor vehicle provided no other means or method by which a front license plate may be displayed upon and secured to the motor vehicle:

(a) One license plate must be attached to the motor vehicle in the rear; and

(b) The other license plate may, at the option of the owner of the vehicle, be attached to the motor vehicle in the front.

3. The provisions of subsection 2 do not relieve the Department of the duty to issue a set of two license plates as otherwise required pursuant to NRS 482.265 or other applicable law and do not entitle the owner of a motor vehicle to pay a reduced tax or fee in connection with the registration or transfer of the motor vehicle. If the owner of a motor vehicle, in accordance with the provisions of subsection 2, exercises the option to attach a license plate only to the rear of the motor vehicle, the owner shall:

(a) Retain the other license plate; and

(b) Insofar as it may be practicable, return or surrender both plates to the Department as a set when required by law to do so.

4. Every license plate must at all times be securely fastened to the vehicle to which it is assigned so as to prevent the plate from swinging and at a height not less than 12 inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible, and must be

maintained free from foreign materials and in a condition to be clearly legible.

5. Any license plate which is issued to a vehicle transporter or a dealer, rebuilder or manufacturer may be attached to a vehicle owned or controlled by that person by a secure means. No license plate may be displayed loosely in the window or by any other unsecured method in any motor vehicle.

Sec. 8. NRS 482.280 is hereby amended to read as follows:

482.280 1. ~~[The]~~ Except as otherwise provided in section 1 of this act, ~~the~~ registration of every vehicle expires at midnight on the day specified on the receipt of registration, unless the day specified falls on a Saturday, Sunday or legal holiday. If the day specified on the receipt of registration is a Saturday, Sunday or legal holiday, the registration of the vehicle expires at midnight on the next judicial day. The Department shall mail to each holder of a certificate of registration a notification for renewal of registration for the following period of registration. The notifications must be mailed by the Department in sufficient time to allow all applicants to mail the notifications to the Department or to renew the certificate of registration at a kiosk or authorized inspection station or via the Internet or an interactive response system and to receive new certificates of registration and license plates, stickers, tabs or other suitable devices by mail before the expiration of their registrations. An applicant may present or submit the notification to any agent or office of the Department.

2. A notification:

(a) Mailed or presented to the Department or to a county assessor pursuant to the provisions of this section;

(b) Submitted to the Department pursuant to NRS 482.294; or

(c) Presented to an authorized inspection station or authorized station pursuant to the provisions of NRS 482.281,

➡ must include, if required, evidence of compliance with standards for the control of emissions.

3. The Department shall include with each notification mailed pursuant to subsection 1:

(a) The amount of the governmental services tax to be collected pursuant to the provisions of NRS 482.260.

(b) The amount set forth in a notice of nonpayment filed with the Department by a local authority pursuant to NRS 484B.527.

(c) A statement which informs the applicant:

(1) That, pursuant to NRS 485.185, ~~if applicable,~~ the applicant is legally required to maintain insurance during the period in which the motor vehicle is registered which must be 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; and

(2) Of any other applicable requirements set forth in chapter 485 of NRS and any regulations adopted pursuant thereto.

(d) A statement which informs the applicant that, if the applicant renews a certificate of registration at a kiosk or via the Internet, he or she may make a nonrefundable monetary contribution of \$2 for each vehicle registration renewed for the Complete Streets Program, if any, created pursuant to NRS 244.2643, 277A.285 or 403.575, as applicable, based on the declaration made pursuant to paragraph (c) of subsection 3 of NRS 482.215. The notification must state in a clear and conspicuous manner that a contribution for a Complete Streets Program is nonrefundable and voluntary and is in addition to any fees required for registration.

4. An application for renewal of a certificate of registration submitted at a kiosk or via the Internet must include a statement which informs the applicant that he or she may make a nonrefundable monetary contribution of \$2, for each vehicle registration which is renewed at a kiosk or via the Internet, for the Complete Streets Program, if any, created pursuant to NRS 244.2643, 277A.285 or 403.575, as applicable, based on the declaration made pursuant to paragraph (c) of subsection 3 of NRS 482.215. The application must state in a clear and conspicuous manner that a contribution for a Complete Streets Program is nonrefundable and voluntary and is in addition to any fees required for registration, and must include a method by which the applicant must indicate his or her intention to opt in or opt out of making such a contribution.

5. An owner who has made proper application for renewal of registration before the expiration of the current registration but who has not received the license plate or plates or card of registration for the ensuing period of registration is entitled to operate or permit the operation of that vehicle upon the highways upon displaying thereon the license plate or plates issued for the preceding period of registration for such a time as may be prescribed by the Department as it may find necessary for the issuance of the new plate or plates or card of registration.

Sec. 8.2. NRS 482.285 is hereby amended to read as follows:

482.285 1. If any certificate of registration or certificate of title is lost, mutilated or illegible, the person to whom it was issued shall immediately make application for and obtain a duplicate or substitute therefor upon furnishing information satisfactory to the Department and upon payment of the required fees.

2. If any license plate or plates or any decal is lost, mutilated or illegible, the person to whom it was issued shall immediately make application for and obtain:

- (a) A duplicate number plate or a substitute number plate;
- (b) A substitute decal; or
- (c) A combination of both (a) and (b),

↪ as appropriate, upon furnishing information satisfactory to the Department and payment of the fees required by NRS 482.500.

3. If any license plate or plates or any decal is stolen, the person to whom it was issued shall immediately make application for and obtain:

- (a) A substitute number plate;
- (b) A substitute decal; or
- (c) A combination of both (a) and (b),

➡ as appropriate, upon furnishing information satisfactory to the Department and payment of the fees required by NRS 482.500.

4. The Department shall issue duplicate number plates or substitute number plates and, if applicable, a substitute decal, if the applicant:

- (a) Returns the mutilated or illegible plates to the Department or signs a declaration that the plates were lost, mutilated or illegible; and
- (b) Complies with the provisions of subsection 6.

5. The Department shall issue substitute number plates and, if applicable, a substitute decal, if the applicant:

- (a) Signs a declaration that the plates were stolen; and
- (b) Complies with the provisions of subsection 6.

6. Except as otherwise provided in this subsection, an applicant who desires duplicate number plates or substitute number plates must make application for renewal of registration. Except as otherwise provided in subsection 7 *or* 8 of NRS 482.260, credit must be allowed for the portion of the registration fee and governmental services tax attributable to the remainder of the current registration period. In lieu of making application for renewal of registration, an applicant may elect to make application solely for:

- (a) Duplicate number plates or substitute number plates, and a substitute decal, if the previous license plates were lost, mutilated or illegible; or
- (b) Substitute number plates and a substitute decal, if the previous license plates were stolen.

7. An applicant who makes the election described in subsection 6 retains the current date of expiration for the registration of the applicable vehicle and is not, as a prerequisite to receiving duplicate number plates or substitute number plates or a substitute decal, required to:

- (a) Submit evidence of compliance with controls over emission; or
- (b) Pay the registration fee and governmental services tax attributable to a full period of registration.

Sec. 8.4. NRS 482.3667 is hereby amended to read as follows:

482.3667 1. The Department shall establish, design and otherwise prepare for issue personalized prestige license plates and shall establish all necessary procedures not inconsistent with this section for the application and issuance of such license plates.

2. The Department shall issue personalized prestige license plates, upon payment of the prescribed fee, to any person who otherwise complies with the laws relating to the registration and licensing of motor vehicles or trailers for use on private passenger cars, motorcycles, trucks or trailers, except that such plates may not be issued for a full trailer or semitrailer that is registered pursuant to subsection 3 of NRS 482.483 ~~or~~ *or a moped registered pursuant to section 1 of this act.*

3. Except as otherwise provided in NRS 482.2065, personalized prestige license plates are valid for 12 months and are renewable upon expiration. These plates may be transferred from one vehicle or trailer to another if the transfer and registration fees are paid as set out in this chapter.

4. In case of any conflict, the person who first made application for personalized prestige license plates and has continuously renewed them by payment of the required fee has priority.

5. The Department may limit by regulation the number of letters and numbers used and prohibit the use of inappropriate letters or combinations of letters and numbers.

6. The Department shall not assign to any person not holding the relevant office any letters and numbers denoting that the holder holds a public office.

Sec. 8.6. NRS 482.3824 is hereby amended to read as follows:

482.3824 1. Except as otherwise provided in NRS 482.38279, with respect to any special license plate that is issued pursuant to NRS 482.3667 to 482.3823, inclusive, and for which additional fees are imposed for the issuance of the special license plate to generate financial support for a charitable organization:

(a) The Director shall, at the request of the charitable organization that is benefited by the particular special license plate:

(1) Order the design and preparation of souvenir license plates, the design of which must be substantially similar to the particular special license plate; and

(2) Issue such souvenir license plates, for a fee established pursuant to NRS 482.3825, only to the charitable organization that is benefited by the particular special license plate. The charitable organization may resell such souvenir license plates at a price determined by the charitable organization.

(b) The Department may, except as otherwise provided in this paragraph and after the particular special license plate is approved for issuance, issue the special license plate for a trailer, motorcycle or other type of vehicle that is not a passenger car or light commercial vehicle, excluding vehicles required to be registered with the Department pursuant to NRS 706.801 to 706.861, inclusive, ~~and~~ full trailers or semitrailers registered pursuant to subsection 3 of NRS 482.483 ~~and~~ and mopeds registered pursuant to section 1 of this act, upon application by a person who is entitled to license plates pursuant to NRS 482.265 or 482.272 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter or chapter 486 of NRS. The Department may not issue a special license plate for such other types of vehicles if the Department determines that the design or manufacture of the plate for those other types of vehicles would not be feasible. In addition, if the Department incurs additional costs to manufacture a special license plate for such other types of vehicles, including, without limitation, costs associated with the purchase, manufacture or modification of dies or other equipment necessary to manufacture the special license plate for

such other types of vehicles, those additional costs must be paid from private sources without any expense to the State of Nevada.

2. If, as authorized pursuant to paragraph (b) of subsection 1, the Department issues a special license plate for a trailer, motorcycle or other type of vehicle that is not a passenger car or light commercial vehicle, the Department shall charge and collect for the issuance and renewal of such a plate the same fees that the Department would charge and collect if the other type of vehicle was a passenger car or light commercial vehicle. As used in this subsection, "fees" does not include any applicable registration or license fees or governmental services taxes.

3. As used in this section:

(a) "Additional fees" has the meaning ascribed to it in NRS 482.38273.

(b) "Charitable organization" means a particular cause, charity or other entity that receives money from the imposition of additional fees in connection with the issuance of a special license plate pursuant to NRS 482.3667 to 482.3823, inclusive. The term includes the successor, if any, of a charitable organization.

Sec. 9. NRS 482.384 is hereby amended to read as follows:

482.384 1. Upon the application of a person with a permanent disability, the Department may issue special license plates for a vehicle, including a motorcycle ~~or~~ *or moped*, registered by the applicant pursuant to this chapter. The application must include a statement from a licensed physician certifying that the applicant is a person with a permanent disability. The issuance of a special license plate to a person with a permanent disability pursuant to this subsection does not preclude the issuance to such a person of a special parking placard for a vehicle other than a motorcycle *or moped* or a special parking sticker for a motorcycle *or moped* pursuant to subsection 6.

2. Every year after the initial issuance of special license plates to a person with a permanent disability, the Department shall require the person to renew the special license plates in accordance with the procedures for renewal of registration pursuant to this chapter. The Department shall not require a person with a permanent disability to include with the application for renewal a statement from a licensed physician certifying that the person is a person with a permanent disability.

3. Upon the application of an organization which provides transportation for a person with a permanent disability, disability of moderate duration or temporary disability, the Department may issue special license plates for a vehicle registered by the organization pursuant to this chapter, or the Department may issue special parking placards to the organization pursuant to this section to be used on vehicles providing transportation to such persons. The application must include a statement from the organization certifying that:

(a) The vehicle for which the special license plates are issued is used primarily to transport persons with permanent disabilities, disabilities of moderate duration or temporary disabilities; or

(b) The organization which is issued the special parking placards will only use such placards on vehicles that actually transport persons with permanent disabilities, disabilities of moderate duration or temporary disabilities.

4. The Department may charge a fee for special license plates issued pursuant to this section not to exceed the fee charged for the issuance of license plates for the same class of vehicle.

5. Special license plates issued pursuant to this section must display the international symbol of access in a color which contrasts with the background and is the same size as the numerals and letters on the plate.

6. Upon the application of a person with a permanent disability or disability of moderate duration, the Department may issue:

(a) A special parking placard for a vehicle other than a motorcycle ~~[-]~~ *or moped*. Upon request, the Department may issue one additional placard to an applicant to whom special license plates have not been issued pursuant to this section.

(b) A special parking sticker for a motorcycle ~~[-]~~ *or moped*.

➡ The application must include a statement from a licensed physician certifying that the applicant is a person with a permanent disability or disability of moderate duration.

7. A special parking placard issued pursuant to subsection 6 must:

(a) Have inscribed on it the international symbol of access which is at least 3 inches in height, is centered on the placard and is white on a blue background;

(b) Have an identification number and date of expiration of:

(1) If the special parking placard is issued to a person with a permanent disability, 10 years after the initial date of issuance; or

(2) If the special parking placard is issued to a person with a disability of moderate duration, 2 years after the initial date of issuance;

(c) Have placed or inscribed on it the seal or other identification of the Department; and

(d) Have a form of attachment which enables a person using the placard to display the placard from the rearview mirror of the vehicle.

8. A special parking sticker issued pursuant to subsection 6 must:

(a) Have inscribed on it the international symbol of access which complies with any applicable federal standards, is centered on the sticker and is white on a blue background;

(b) Have an identification number and a date of expiration of:

(1) If the special parking sticker is issued to a person with a permanent disability, 10 years after the initial date of issuance; or

(2) If the special parking sticker is issued to a person with a disability of moderate duration, 2 years after the initial date of issuance; and

(c) Have placed or inscribed on it the seal or other identification of the Department.

9. Before the date of expiration of a special parking placard or special parking sticker issued to a person with a permanent disability or disability of

moderate duration, the person shall renew the special parking placard or special parking sticker. If the applicant for renewal is a person with a disability of moderate duration, the applicant must include with the application for renewal a statement from a licensed physician certifying that the applicant is a person with a disability which limits or impairs the ability to walk, and that such disability, although not irreversible, is estimated to last longer than 6 months. A person with a permanent disability is not required to submit evidence of a continuing disability with the application for renewal.

10. The Department, or a city or county, may issue, and charge a reasonable fee for, a temporary parking placard for a vehicle other than a motorcycle *or moped* or a temporary parking sticker for a motorcycle *or moped* upon the application of a person with a temporary disability. Upon request, the Department, city or county may issue one additional temporary parking placard to an applicant. The application must include a certificate from a licensed physician indicating:

- (a) That the applicant has a temporary disability; and
- (b) The estimated period of the disability.

11. A temporary parking placard issued pursuant to subsection 10 must:

- (a) Have inscribed on it the international symbol of access which is at least 3 inches in height, is centered on the placard and is white on a red background;
- (b) Have an identification number and a date of expiration; and
- (c) Have a form of attachment which enables a person using the placard to display the placard from the rearview mirror of the vehicle.

12. A temporary parking sticker issued pursuant to subsection 10 must:

- (a) Have inscribed on it the international symbol of access which is at least 3 inches in height, is centered on the sticker and is white on a red background; and
- (b) Have an identification number and a date of expiration.

13. A temporary parking placard or temporary parking sticker is valid only for the period for which a physician has certified the disability, but in no case longer than 6 months. If the temporary disability continues after the period for which the physician has certified the disability, the person with the temporary disability must renew the temporary parking placard or temporary parking sticker before the temporary parking placard or temporary parking sticker expires. The person with the temporary disability shall include with the application for renewal a statement from a licensed physician certifying that the applicant continues to be a person with a temporary disability and the estimated period of the disability.

14. A special or temporary parking placard must be displayed in the vehicle when the vehicle is parked by hanging or attaching the placard to the rearview mirror of the vehicle. If the vehicle has no rearview mirror, the placard must be placed on the dashboard of the vehicle in such a manner that the placard can easily be seen from outside the vehicle when the vehicle is parked.

15. Upon issuing a special license plate pursuant to subsection 1, a special or temporary parking placard, or a special or temporary parking sticker, the Department, or the city or county, if applicable, shall issue a letter to the applicant that sets forth the name and address of the person with a permanent disability, disability of moderate duration or temporary disability to whom the special license plate, special or temporary parking placard or special or temporary parking sticker has been issued and:

(a) If the person receives special license plates, the license plate number designated for the plates; and

(b) If the person receives a special or temporary parking placard or a special or temporary parking sticker, the identification number and date of expiration indicated on the placard or sticker.

➡ The letter, or a legible copy thereof, must be kept with the vehicle for which the special license plate has been issued or in which the person to whom the special or temporary parking placard or special or temporary parking sticker has been issued is driving or is a passenger.

16. A special or temporary parking sticker must be affixed to the windscreen of the motorcycle ~~[-]~~ *or moped*. If the motorcycle *or moped* has no windscreen, the sticker must be affixed to any other part of the motorcycle *or moped* which may be easily seen when the motorcycle *or moped* is parked.

17. Special or temporary parking placards, special or temporary parking stickers, or special license plates issued pursuant to this section do not authorize parking in any area on a highway where parking is prohibited by law.

18. No person, other than the person certified as being a person with a permanent disability, disability of moderate duration or temporary disability, or a person actually transporting such a person, may use the special license plate or plates or a special or temporary parking placard, or a special or temporary parking sticker issued pursuant to this section to obtain any special parking privileges available pursuant to this section.

19. Any person who violates the provisions of subsection 18 is guilty of a misdemeanor.

20. The Department may review the eligibility of each holder of a special parking placard, a special parking sticker or special license plates, or any combination thereof. Upon a determination of ineligibility by the Department, the holder shall surrender the special parking placard, special parking sticker or special license plates, or any combination thereof, to the Department.

21. The Department may adopt such regulations as are necessary to carry out the provisions of this section.

Sec. 9.3. NRS 482.399 is hereby amended to read as follows:

482.399 1. Upon the transfer of the ownership of or interest in any vehicle by any holder of a valid registration, or upon destruction of the vehicle, the registration expires.

2. Except as otherwise provided in subsection 3 of NRS 482.483, and section 1 of this act, the holder of the original registration may transfer the registration to another vehicle to be registered by the holder and use the same regular license plate or plates or special license plate or plates issued pursuant to NRS 482.3667 to 482.3823, inclusive, or 482.384, on the vehicle from which the registration is being transferred, if the license plate or plates are appropriate for the second vehicle, upon filing an application for transfer of registration and upon paying the transfer registration fee and the excess, if any, of the registration fee and governmental services tax on the vehicle to which the registration is transferred over the total registration fee and governmental services tax paid on all vehicles from which he or she is transferring ownership or interest. Except as otherwise provided in NRS 482.294, an application for transfer of registration must be made in person, if practicable, to any office or agent of the Department or to a registered dealer, and the license plate or plates may not be used upon a second vehicle until registration of that vehicle is complete.

3. In computing the governmental services tax, the Department, its agent or the registered dealer shall credit the portion of the tax paid on the first vehicle attributable to the remainder of the current registration period or calendar year on a pro rata monthly basis against the tax due on the second vehicle or on any other vehicle of which the person is the registered owner. If any person transfers ownership or interest in two or more vehicles, the Department or the registered dealer shall credit the portion of the tax paid on all of the vehicles attributable to the remainder of the current registration period or calendar year on a pro rata monthly basis against the tax due on the vehicle to which the registration is transferred or on any other vehicle of which the person is the registered owner. The certificates of registration and unused license plates of the vehicles from which a person transfers ownership or interest must be submitted before credit is given against the tax due on the vehicle to which the registration is transferred or on any other vehicle of which the person is the registered owner.

4. In computing the registration fee, the Department or its agent or the registered dealer shall credit the portion of the registration fee paid on each vehicle attributable to the remainder of the current calendar year or registration period on a pro rata basis against the registration fee due on the vehicle to which registration is transferred.

5. If the amount owed on the registration fee or governmental services tax on the vehicle to which registration is transferred is less than the credit on the total registration fee or governmental services tax paid on all vehicles from which a person transfers ownership or interest, no refund may be allowed by the Department.

6. If the license plate or plates are not appropriate for the second vehicle, the plate or plates must be surrendered to the Department or registered dealer and an appropriate plate or plates must be issued by the Department. The

Department shall not reissue the surrendered plate or plates until the next succeeding licensing period.

7. If application for transfer of registration is not made within 60 days after the destruction or transfer of ownership of or interest in any vehicle, the license plate or plates must be surrendered to the Department on or before the 60th day for cancellation of the registration.

8. Except as otherwise provided in subsection 2 of NRS 371.040 and subsection 7 of NRS 482.260, and section 1 of this act, if a person cancels his or her registration and surrenders to the Department the license plates for a vehicle, the Department shall, in accordance with the provisions of subsection 9, issue to the person a refund of the portion of the registration fee and governmental services tax paid on the vehicle attributable to the remainder of the current calendar year or registration period on a pro rata basis.

9. The Department shall issue a refund pursuant to subsection 8 only if the request for a refund is made at the time the registration is cancelled and the license plates are surrendered, the person requesting the refund is a resident of Nevada, the amount eligible for refund exceeds \$100, and evidence satisfactory to the Department is submitted that reasonably proves the existence of extenuating circumstances. For the purposes of this subsection, the term "extenuating circumstances" means circumstances wherein:

(a) The person has recently relinquished his or her driver's license and has sold or otherwise disposed of his or her vehicle.

(b) The vehicle has been determined to be inoperable and the person does not transfer the registration to a different vehicle.

(c) The owner of the vehicle is seriously ill or has died and the guardians or survivors have sold or otherwise disposed of the vehicle.

(d) Any other event occurs which the Department, by regulation, has defined to constitute an "extenuating circumstance" for the purposes of this subsection.

Sec. 10. NRS 482.451 is hereby amended to read as follows:

482.451 1. The Department shall, upon receiving an order from a court to suspend the registration of each motor vehicle that is registered to or owned by a person pursuant to NRS 484C.520, suspend the registration of each such motor vehicle for 5 days and require the return to the Department of the license plates of each such motor vehicle.

2. If the registration of a motor vehicle of a person is suspended pursuant to this section, the person shall immediately return the certificate of registration and the license plates to the Department.

3. The period of suspension of the registration of a motor vehicle that is suspended pursuant to this section begins on the effective date of the suspension as set forth in the notice thereof.

4. The Department shall reinstate the registration of a motor vehicle that was suspended pursuant to this section and reissue the license plates of the

motor vehicle only upon the payment of the fee for reinstatement of registration prescribed in subsection ~~{10}~~ 11 of NRS 482.480.

5. The suspension of the registration of a motor vehicle pursuant to this section does not prevent the owner of the motor vehicle from selling or otherwise transferring an interest in the motor vehicle.

Sec. 11. NRS 482.480 is hereby amended to read as follows:

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

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

2. Except as otherwise provided in subsection 3:

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

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

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

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

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

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

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

5. *For every moped, a one-time fee for registration of \$33.*

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

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

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

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

➡ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in

the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

~~{7.}~~ 8. For every travel trailer, a fee for registration of \$27.

~~{8.}~~ 9. For every permit for the operation of a golf cart, an annual fee of \$10.

~~{9.}~~ 10. For every low-speed vehicle, as that term is defined in NRS 484B.637, a fee for registration of \$33.

~~{10.}~~ 11. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451 or 482.458, a fee of \$33.

~~{11.}~~ 12. For each vehicle for which the registered owner has indicated his or her intention to opt in to making a contribution pursuant to paragraph (h) of subsection 3 of NRS 482.215 or subsection 4 of NRS 482.280, a contribution of \$2. The contribution must be distributed to the appropriate county pursuant to NRS 482.1825.

Sec. 12. ~~NRS 482.490 is hereby amended to read as follows:~~

~~482.490 Each person who applies for a manufacturer's, distributor's, dealer's or rebuilder's license plate, or pair of plates shall pay at the time of application a fee according to the following schedule:~~

~~For each plate or pair of plates for a motor vehicle, including a motorcycle or moped.....\$12~~

~~For plates for a trailer or semitrailer.....12~~

~~This fee is in lieu of any other fee specified in this chapter except the fees imposed by NRS 482.268. (Deleted by amendment.)~~

Sec. 13. NRS 484B.467 is hereby amended to read as follows:

484B.467 1. Any parking space designated for persons who are handicapped must be indicated by a sign:

(a) Bearing the international symbol of access with or without the words "Parking," "Handicapped Parking," "Handicapped Parking Only" or "Reserved for the Handicapped," or any other word or combination of words indicating that the space is designated for persons who are handicapped;

(b) Stating "Minimum fine of \$250 for use by others" or equivalent words; and

(c) The bottom of which must be not less than 4 feet above the ground.

2. In addition to the requirements of subsection 1, a parking space designated for persons who are handicapped which:

(a) Is designed for the exclusive use of a vehicle with a side-loading wheelchair lift; and

(b) Is located in a parking lot with 60 or more parking spaces, must be indicated by a sign using a combination of words to state that the space is for the exclusive use of a vehicle with a side-loading wheelchair lift.

3. If a parking space is designed for the use of a vehicle with a side-loading wheelchair lift, the space which is immediately adjacent and intended for use in the loading and unloading of a wheelchair into or out of such a vehicle must be indicated by a sign:

(a) Stating "No Parking" or similar words which indicate that parking in such a space is prohibited;

(b) Stating "Minimum fine of \$250 for violation" or similar words indicating that the minimum fine for parking in such a space is \$250; and

(c) The bottom of which must not be less than 4 feet above the ground.

4. An owner of private property upon which is located a parking space described in subsection 1, 2 or 3 shall erect and maintain or cause to be erected and maintained any sign required pursuant to subsection 1, 2 or 3, whichever is applicable. If a parking space described in subsection 1, 2 or 3 is located on public property, the governmental entity having control over that public property shall erect and maintain or cause to be erected and maintained any sign required pursuant to subsection 1, 2 or 3, whichever is applicable.

5. A person shall not park a vehicle in a space designated for persons who are handicapped by a sign that meets the requirements of subsection 1, whether on public or privately owned property, unless the person is eligible to do so and the vehicle displays:

(a) A special license plate or plates issued pursuant to NRS 482.384;

(b) A special or temporary parking placard issued pursuant to NRS 482.384;

(c) A special or temporary parking sticker issued pursuant to NRS 482.384;

(d) A special license plate or plates, a special or temporary parking sticker, or a special or temporary parking placard displaying the international symbol of access issued by another state or a foreign country; or

(e) A special license plate or plates for a veteran with a disability issued pursuant to NRS 482.377.

6. Except as otherwise provided in this subsection, a person shall not park a vehicle in a space that is reserved for the exclusive use of a vehicle with a side-loading wheelchair lift and is designated for persons who are handicapped by a sign that meets the requirements of subsection 2, whether on public or privately owned property, unless:

(a) The person is eligible to do so;

(b) The vehicle displays the special license plate, plates or placard set forth in subsection 5; and

(c) The vehicle is equipped with a side-loading wheelchair lift.

↪ A person who meets the requirements of paragraphs (a) and (b) may park a vehicle that is not equipped with a side-loading wheelchair lift in such a parking space if the space is in a parking lot with fewer than 60 parking spaces.

7. A person shall not park in a space which:

(a) Is immediately adjacent to a space designed for use by a vehicle with a side-loading wheelchair lift; and

(b) Is designated as a space in which parking is prohibited by a sign that meets the requirements of subsection 3,

↪ whether on public or privately owned property.

8. A person shall not use a plate, sticker or placard set forth in subsection 5 to park in a space designated for persons who are handicapped unless he or she is a person with a permanent disability, disability of moderate duration or temporary disability, a veteran with a disability or the driver of a vehicle in which any such person is a passenger.

9. A person with a permanent disability, disability of moderate duration or temporary disability to whom a:

(a) Special license plate, or a special or temporary parking sticker, has been issued pursuant to NRS 482.384 shall not allow any other person to park the vehicle, ~~for~~ motorcycle *or moped* displaying the special license plate or special or temporary parking sticker in a space designated for persons who are handicapped unless the person with the permanent disability, disability of moderate duration or temporary disability is a passenger in the vehicle or on the motorcycle ~~or~~ *or moped*, or is being picked up or dropped off by the driver of the vehicle, ~~for~~ motorcycle ~~or~~ *or moped*, at the time that the vehicle, ~~for~~ motorcycle *or moped* is parked in the space designated for persons who are handicapped.

(b) Special or temporary parking placard has been issued pursuant to NRS 482.384 shall not allow any other person to park the vehicle which displays the special or temporary parking placard in a space designated for persons who are handicapped unless the person with the permanent disability, disability of moderate duration or temporary disability is a passenger in the vehicle, or is being picked up or dropped off by the driver of the vehicle, at the time that it is parked in the space designated for persons who are handicapped.

10. A person who violates any of the provisions of subsections 5 to 9, inclusive, is guilty of a misdemeanor and shall be punished:

(a) Upon the first offense, by a fine of \$250.

(b) Upon the second offense, by a fine of \$250 and not less than 8 hours, but not more than 50 hours, of community service.

(c) Upon the third or subsequent offense, by a fine of not less than \$500, but not more than \$1,000 and not less than 25 hours, but not more than 100 hours, of community service.

Sec. 14. NRS 485.185 is hereby amended to read as follows:

485.185 ~~Every~~

1. *Except as otherwise provided in subsection 2, every* owner of a motor vehicle which is registered or required to be registered in this State shall continuously provide, while the motor vehicle is present or registered in this State, insurance 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:

~~It~~ (a) In the amount of \$15,000 for bodily injury to or death of one person in any one accident;

~~{2-}~~ (b) Subject to the limit for one person, in the amount of \$30,000 for bodily injury to or death of two or more persons in any one accident; and

~~{3-}~~ (c) In the amount of \$10,000 for injury to or destruction of property of others in any one accident,

➡ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

2. *The provisions of this section do not apply to a moped.*

Sec. 15. NRS 485.317 is hereby amended to read as follows:

485.317 1. The Department shall verify that each motor vehicle which is registered in this State is covered by a policy of liability insurance as required by NRS 485.185.

2. Except as otherwise provided in this subsection, the Department may use any information to verify whether a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If the Department is unable to verify that a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a request for information by first-class mail to the registered owner of the motor vehicle. The owner shall submit all the information which is requested to the Department within 15 days after the date on which the request for information was mailed by the Department. If the Department does not receive the requested information within 15 days after it mailed the request to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless the Department is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185 within 10 days after the date on which the notice was sent by the Department, the owner's registration will be suspended pursuant to subsection 4.

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the Department cannot verify the coverage of liability insurance required by NRS 485.185.

5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon verification of current insurance and compliance with the requirements for reinstatement of registration prescribed in paragraph (a) of subsection ~~{6}~~ 7 of NRS 482.480.

6. If the Department suspends the registration of a motor vehicle pursuant to subsection 4 because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that the owner was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances or that the motor vehicle was a dormant vehicle

and the owner failed to cancel the registration in accordance with subsection 3 of NRS 485.320, the Department may:

(a) Reinstate the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of \$50, which must be deposited in the Account for Verification of Insurance created by subsection ~~6~~ 7 of NRS 482.480; or

(b) Remove the suspension of the registration without the payment of a fee or administrative fine.

➔ The Department shall adopt regulations to carry out the provisions of this subsection.

Sec. 15.12. NRS 482.381 is hereby amended to read as follows:

482.381 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 motor vehicle which is a model manufactured more than 40 years before the date of application for registration pursuant to this section.

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

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

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

(a) For the first issuance..... \$35

(b) For a renewal sticker 10

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

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

Sec. 15.14. NRS 482.3812 is hereby amended to read as follows:

482.3812 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 passenger car or light commercial vehicle:

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

(b) Manufactured not later than 1948.

2. License plates issued pursuant to this section must be inscribed with the words "STREET ROD" and 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 to which the plates are affixed, the holder shall retain the plates and:

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

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

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

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

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

Sec. 15.16. NRS 482.3814 is hereby amended to read as follows:

482.3814 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 passenger car or light commercial vehicle:

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

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

2. License plates issued pursuant to this section must be inscribed with the words "CLASSIC ROD" and a number of characters, including numbers and letters, as determined necessary by the Director.

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

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

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

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

5. In addition to the fees required pursuant to subsection 4, the Department shall charge and collect a fee for the first issuance of the special license plates for those motor vehicles exempted pursuant to paragraph (b) of subsection 1 of NRS 445B.760 from the provisions of NRS 445B.770 to

445B.815, inclusive. The amount of the fee must be equal to the amount of the fee for a form certifying emission control compliance set forth in paragraph (c) of subsection 1 of NRS 445B.830.

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

Sec. 15.18. 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 passenger car or light commercial vehicle:

- (a) Having a manufacturer's rated carrying capacity of 1 ton or less;
- (b) Manufactured at least 25 years before the application is submitted to the Department; and
- (c) Containing only the original parts which were used to manufacture the vehicle or replacement parts that duplicate those original parts.

2. License plates issued pursuant to this section must be inscribed with the words "CLASSIC VEHICLE" and 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 to which the plates are affixed, the holder shall retain the plates and:

- (a) Affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or
- (b) Within 30 days after removing the plates from the vehicle, return them to the Department.

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

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

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

Sec. 15.2. NRS 371.040 is hereby amended to read as follows:

371.040 1. Except as otherwise provided in ~~subsection~~ subsections 2 and 3, the annual amount of the basic governmental services tax throughout the State is 4 cents on each \$1 of valuation of the vehicle as determined by the Department.

2. A full trailer or semitrailer registered pursuant to subsection 3 of NRS 482.483 is subject to the basic governmental services tax in the

nonrefundable amount of \$86 each time such a full trailer or semitrailer is registered pursuant to subsection 3 of NRS 482.483.

3. The amount of the basic governmental services tax imposed on a moped registered pursuant to section 1 of this act is 4 cents on each \$1 of valuation of the moped as determined by the Department at the time of registration.

Sec. 15.4. 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 ~~and section 1 of this act~~, 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 percent
2 years	85 percent
3 years	75 percent
4 years	65 percent
5 years	55 percent
6 years	45 percent
7 years	35 percent
8 years	25 percent
9 years or more	15 percent

2. Except as otherwise provided in ~~subsection~~ subsections 2 and 3 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 percent
2 years	69 percent
3 years	57 percent
4 years	47 percent
5 years	38 percent
6 years	33 percent
7 years	33 percent
8 years	27 percent
9 years	25 percent
10 years or more	23 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.

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. 15.6. NRS 371.070 is hereby amended to read as follows:

371.070 Except as otherwise provided in ~~subsection~~ subsections 2 and 3 of NRS 371.040, upon the registration for the first time in this State after the beginning of the period of registration of a vehicle which is registered pursuant to the provisions of NRS 706.801 to 706.861, inclusive, or which has a declared gross weight in excess of 26,000 pounds, the amount of the governmental services tax must be reduced one-twelfth for each month which has elapsed since the beginning of the period of registration.

Sec. 15.8. NRS 445B.760 is hereby amended to read as follows:

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

(a) A moped registered pursuant to section 1 of this act; and

(b) A vehicle for which special license plates have been issued pursuant to NRS 482.381, 482.3812, 482.3814 or 482.3816 if the owner of such a vehicle certifies to the Department of Motor Vehicles, on a form provided by the Department of Motor Vehicles, that the vehicle was not driven more than 5,000 miles during the immediately preceding year.

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

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

(b) Trimobile, as defined in NRS 482.129,

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

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

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

Sec. 15.9. As soon as practicable, upon determining that sufficient resources are available to enable the Department of Motor Vehicles to carry out the amendatory provisions of this act, the Director of the Department shall notify the Governor and the Director of the Legislative Counsel Bureau

of that fact, and shall publish on the Internet website of the Department notice to the public of that fact.

Sec. 16. This act becomes effective ~~on July 1, 2016.~~ :

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. For all other purposes, on:

(a) January 1, 2017; or

(b) The date on which the Director of the Department of Motor Vehicles, pursuant to section 15.9 of this act, notifies the Governor and the Director of the Legislative Counsel Bureau that sufficient resources are available to enable the Department to carry out the amendatory provisions of this act.

↪ whichever occurs first.

Senator Hammond moved the adoption of the amendment.

Remarks by Senator Hammond.

Amendment No. 413 to Senate Bill No. 404 requires the owner of a moped to register the vehicle with the Department of Motor Vehicles (DMV). A moped must be registered and government services tax paid only once, and registration is effective until the owner transfers ownership or cancels the registration and surrenders the license plate to the DMV. The DMV must issue a moped a license plate distinct from the license plate for a motorcycle.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 439.

Bill read second time.

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

Amendment No. 465.

SUMMARY—Provides for the permitting and regulation of transportation network companies. (BDR 58-633)

AN ACT relating to transportation services; providing for the regulation by the Public Utilities Commission of Nevada of transportation network companies; requiring the establishment of fees and annual assessments for a transportation network company; authorizing a transportation network company that holds a valid permit issued by the Commission to ~~enter into an agreement with~~ make its digital network or software application service available to one or more drivers to receive connections to passengers from the company; establishing requirements concerning the qualifications of, the provision of insurance for and the operation and maintenance of motor vehicles operated by drivers who provide transportation services; prohibiting a local government from imposing on a transportation network company or a driver for such a company any additional tax or fee or requirement as a condition of providing transportation services; providing that a transportation network company or driver who provides transportation services pursuant to a valid permit issued by the Commission is not subject to certain provisions

of law governing motor carriers; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the permitting by the Public Utilities Commission of Nevada of transportation network companies and the regulation by the Commission of the provision of transportation services. Section 5 of this bill defines a "transportation network company" as an entity that uses a digital network or software application service to connect passengers to drivers who can provide transportation services to passengers. Section 6 of this bill defines "transportation services" as the transportation by motor vehicle of one or more passengers between points chosen by the passenger or passengers and prearranged with a driver through the use of the digital network or software application service of a transportation network company. Section 7 of this bill provides that it is the purpose and policy of the Legislature in enacting this bill to ensure the safety, reliability and cost-effectiveness of the transportation services provided by drivers affiliated with transportation network companies in this State.

Section 8 of this bill prohibits any person from doing business in this State as a transportation network company unless the person holds a valid permit issued by the Commission pursuant to the provisions of this bill. Section 9 of this bill provides for the submission to the Commission of an application for a permit. Section 10 of this bill requires the Commission to issue a permit to an applicant upon a determination by the Commission that the applicant meets all the applicable requirements for the issuance of the permit. ~~[Section 10 provides that a permit issued by the Commission expires annually but may be renewed.]~~ Section 10 further provides that a permit issued by the Commission authorizes a transportation network company to: (1) connect passengers to a driver who can provide transportation services through the use of a digital network or software application service; and (2) ~~[enter into agreements with]~~ make its digital network or software application service available to one or more drivers to receive connections from the company. Additionally, section 10 provides that a permit issued by the Commission does not authorize a transportation network company to engage in any activity regulated pursuant to chapter 706 of NRS, relating to motor carriers. Section 11 of this bill requires the Commission to establish a fee for the issuance of a permit to operate a transportation network company. Section 11 also requires the payment of an annual assessment by ~~[all]~~ each transportation network ~~[companies]~~ company in this State, ~~[beginning in the year after the company receives a permit.]~~ Section 11 additionally requires the Commission to collect from a company a fee of 25 cents for each trip for which a driver provides transportation services using the company's digital network or software application service and to deposit this amount for credit to the State Highway Fund.

Section 14 of this bill authorizes a transportation network company to enter into agreements with one or more drivers to receive connections to

potential passengers from the company. Section 14 establishes the minimum qualifications for drivers and requires a transportation network company to conduct an investigation of the background of each driver, which must include a criminal background check, a search of a database containing information from the sex offender website maintained by each state and a review of the complete driving history of the driver. Further, section 14 sets forth the conditions for which a transportation network company must terminate an agreement with a driver.

Section 15 of this bill provides that a transportation network company may, on behalf of a driver, charge a fare for the provision of transportation services by the driver and places certain requirements on the company concerning the fares and the information which must be provided to passengers concerning the amount and the calculation of fares.

Section 16 of this bill: (1) prohibits a transportation network company from ~~entering into an agreement with~~ allowing any driver who operates a motor vehicle that is not in compliance with all federal, state and local laws governing the operation and maintenance of a motor vehicle ~~to be connected to potential passengers;~~ and (2) requires annual inspections of each motor vehicle operated by a driver.

~~Section 17~~ Sections 35-45 of this bill ~~establishes~~ establish certain requirements concerning the provision of insurance for the payment of tort liabilities arising from the operation of a motor vehicle by a driver who provides transportation services.

Section 18 of this bill prohibits discrimination on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression by a transportation network company or driver. Section 19 of this bill requires a transportation network company to provide to passengers certain information relating to the identification of a driver. Section 20 of this bill requires a transportation network company to provide an electronic receipt to each passenger. Section 21 of this bill imposes on transportation network companies certain recordkeeping requirements. Section 22 of this bill imposes on transportation network companies certain reporting requirements.

Section 23 of this bill establishes certain requirements relating to the provision of transportation services by a driver. Section 23 also prohibits a driver from soliciting passengers or providing transportation services except to persons who have arranged for such transportation services through the digital network or software application service of a transportation network company. Section 24 of this bill prohibits a driver from consuming, ~~for~~ using or being under the influence of any intoxicating liquor or controlled substance during any period when the driver is providing transportation services or is logged into the digital network or software application service of a transportation network company. With certain exceptions, section 25 of this bill prohibits a transportation network company from releasing the personally identifying information of passengers.

Section 26 of this bill provides for the investigation of complaints against a transportation network company or driver. Section 27 of this bill: (1) authorizes the Commission to impose certain penalties for any violation of the provisions of this bill by a transportation network company or driver; and (2) provides that a person who violates any provision of this bill is not subject to a criminal penalty.

Section 28 of this bill provides that this bill does not exempt any person from any other laws governing the operation of a motor vehicle upon the highways of this State, except that a transportation network company or a driver who provides transportation services within the scope of a permit issued by the Commission is not subject to the provisions of existing law governing motor carriers or public utilities. ~~[unless the person is otherwise licensed pursuant to those provisions.]~~

Section 29 of this bill prohibits a local government from: (1) imposing any tax or fee on a transportation network company, a driver who has entered into an agreement with such a company or a vehicle operated by such a driver ~~[.]~~ or for transportation services provided by such a driver; (2) requiring a transportation network company or driver to obtain from the local government any certificate, license or permit to provide transportation services; or (3) imposing any other requirement on the operation of a motor vehicle by a transportation network company or driver which is not of general applicability. Section 29 does not prohibit a local government from requiring a transportation network company or driver to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government. Section 29 does not prohibit an airport from requiring a transportation network company or driver to obtain a permit or certification to operate at the airport, pay a fee to operate at the airport or comply with any other requirement to operate at the airport. Section 29 also states that this bill does not exempt any person from the requirement to obtain a state business license.

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 30, 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 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Commission" means the Public Utilities Commission of Nevada.*

Sec. 4. *"Driver" means a natural person who:*

1. *Operates a motor vehicle that is owned, leased or otherwise authorized for use by the person; and*

2. *Enters into an agreement with a transportation network company to receive connections to potential passengers and related services from a*

transportation network company in exchange for the payment of a fee to the transportation network company.

Sec. 5. "Transportation network company" or "company" means an entity that uses a digital network or software application service to connect a passenger to a driver who can provide transportation services to the passenger.

Sec. 6. "Transportation services" means the transportation by a driver of one or more passengers between points chosen by the passenger or passengers and prearranged through the use of the digital network or software application service of a transportation network company. The term includes only the period beginning when a driver accepts a request by a passenger for transportation ~~received~~ through the digital network or software application service of a transportation network company and ending when the last such passenger ~~for passengers exit~~ fully disembarks from the motor vehicle operated by the driver.

Sec. 7. It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter to ensure the safety, reliability and cost-effectiveness of the transportation services provided by drivers affiliated with transportation network companies in this State.

Sec. 7.3. The provisions of this chapter do not apply to common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705.

Sec. 7.5. Nothing in this chapter shall be construed to deem a motor vehicle operated by a driver to provide transportation services to be a commercial motor vehicle.

Sec. 7.7. Except as otherwise provided in this chapter and the regulations adopted pursuant thereto or by a written contract between a transportation network company and a driver, a company shall not control, direct or manage a driver or the motor vehicle operated by a driver.

Sec. 8. 1. A transportation network company shall not engage in business in this State unless the company holds a valid permit issued by the Commission pursuant to this chapter.

2. A driver shall not provide transportation services unless the company with which the driver is affiliated holds a valid permit issued by the Commission pursuant to this chapter.

Sec. 9. A person who desires to operate a transportation network company in this State must submit to the Commission an application for the issuance of a permit to operate a transportation network company. The application must be in the form required by the Commission, must be accompanied by the fee required by section 11 of this act and must include ~~f~~ ~~without limitation~~

~~1. Proof satisfactory to the Commission that the applicant is not engaged in and will not engage in any activity or provide any services otherwise~~

~~regulated pursuant to chapter 706 of NRS or holds a license issued pursuant to chapter 706 of NRS.~~

~~2. Any other~~ such information as reasonably required by the Commission ~~for~~ by regulation.

Sec. 10. 1. Upon receipt of a completed application and payment of the required fee and upon a determination by the Commission that an applicant meets the requirements for the issuance of a permit to operate a transportation network company, the Commission shall issue to the applicant within 120 days ~~for an initial~~ a permit to operate a transportation network company in this State.

2. ~~A permit issued pursuant to this section expires annually on the anniversary of the date on which the initial permit was issued but may be renewed in the manner prescribed by the Commission by regulation.~~

~~3. In accordance with the provisions of this chapter, a permit issued for renewed~~ pursuant to this section:

(a) Authorizes a transportation network company to connect one or more passengers through the use of a digital network or software application service to a driver who can provide transportation services.

(b) Authorizes a transportation network company to ~~enter into agreements with~~ make its digital network or software application service available to one or more drivers to receive connections to potential passengers from the company in exchange for the payment of a fee by the driver to the company.

(c) Does not authorize a transportation network company or any driver to engage in any activity otherwise regulated pursuant to chapter 706 of NRS.

Sec. 11. 1. The Commission shall charge and collect a fee in an amount established by the Commission by regulation from each applicant for ~~for an initial~~ a permit to operate a transportation network company in this State. The fee required by this subsection is not refundable. The Commission shall not issue a permit to operate a transportation network company in this State unless the applicant has paid the fee required by this subsection.

2. ~~Beginning on the date of~~ For each year after the ~~issuance of~~ year in which the Commission issues a permit ~~for~~ to a transportation network company, the Commission shall levy and collect an annual assessment from ~~all~~ the transportation network ~~companies in this State on~~ company at a rate determined by the Commission based on the gross operating revenue derived from the intrastate operations of ~~such~~ the transportation network ~~companies~~ company in this State.

3. ~~The total~~ annual assessment levied and collected by the Commission pursuant to subsection 2 must ~~not exceed the amount determined~~ be used by the Commission ~~to be necessary~~ for the regulation of transportation network companies.

4. The Commission shall charge and collect from each transportation network company a fee of 25 cents for each trip for which a driver provides transportation services to a passenger with whom the driver connected using

the digital network or software application service of the company. All fees collected by the Commission pursuant to this subsection must be deposited with the State Treasurer for credit to the State Highway Fund.

~~Sec. 12. [1. In addition to any other requirements set forth in this chapter, an applicant for the renewal of a permit to operate a transportation network company must indicate in the application submitted to the Commission whether the applicant has a state business license. If the applicant has a state business license, the applicant must include in the application the state business license number assigned by the Secretary of State upon compliance with the provisions of chapter 76 of NRS.~~

~~2. A permit to operate a transportation network company may not be renewed by the Commission if:~~

~~(a) The applicant fails to submit the information required by subsection 1;~~

~~or~~

~~(b) The State Controller has informed the Commission pursuant to subsection 5 of NRS 353C.1065 that the applicant owes a debt to an agency that has been assigned to the State Controller for collection and the applicant has not:~~

~~(1) Satisfied the debt;~~

~~(2) Entered into an agreement for the payment of the debt pursuant to NRS 353C.130; or~~

~~(3) Demonstrated that the debt is not valid.~~

~~3. As used in this section:~~

~~(a) "Agency" has the meaning ascribed to it in NRS 353C.020.~~

~~(b) "Debt" has the meaning ascribed to it in NRS 353C.040.] (Deleted by amendment.)~~

Sec. 13. A transportation network company shall appoint and keep in this State a registered agent as provided in NRS 14.020.

Sec. 14. 1. A transportation network company may enter into an agreement with one or more drivers to receive connections to potential passengers from the company in exchange for the payment of a fee by the driver to the company.

2. Before a transportation network company allows a ~~driver~~ person to be connected to potential passengers using the digital network or software application service of the company pursuant to an agreement with the company, the company must:

(a) Require the person to submit an application to the company, which must include, without limitation:

(1) The name, age and address of the applicant.

(2) A copy of the driver's license of the applicant.

(3) A record of the driving history of the applicant.

(4) A description of the motor vehicle of the applicant and a copy of the motor vehicle registration.

(5) Proof that the applicant has complied with the requirements of NRS 485.185.

(6) *Any other information required by the company or any regulations adopted by the Commission pursuant to section 30 of this act.*

(b) *At the time of application and not less than once every 3 years thereafter, conduct or contract with a third party to conduct an investigation of the criminal history of the applicant, which must include, without limitation:*

(1) *A review of a commercially available database containing criminal records from each state which are validated using a search of the primary source of each record.*

(2) *A search of a database containing the information available in the sex offender registry maintained by each state.*

(c) *At the time of application and not less than once every year thereafter, obtain and review a complete record of the driving history of the applicant.*

3. *A transportation network company may enter into an agreement with a driver if:*

(a) *The applicant is at least 19 years of age.*

(b) *The applicant possesses a valid driver's license issued by the Department of Motor Vehicles.*

(c) *The applicant provides proof that the motor vehicle operated by him or her is registered with the Department of Motor Vehicles.*

(d) *The applicant provides proof that the motor vehicle operated by him or her is operated and maintained in compliance with all applicable federal, state and local laws.*

(e) *The applicant provides proof that he or she currently is in compliance with the provisions of NRS 485.185.*

(f) *In the 3 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of three or more violations of the motor vehicle laws of this State or any traffic ordinance of any city or town, the penalty prescribed for which is a misdemeanor.*

(g) *In the 3 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of any violation of the motor vehicle laws of this State or any traffic ordinance of any city or town, the penalty prescribed for which is a gross misdemeanor or felony.*

(h) *In the 7 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of any violation of federal, state or local law prohibiting driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance.*

(i) *In the 7 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of any crime involving an act of terrorism, an act of violence, a sexual offense, fraud, theft, damage to property of another or the use of a motor vehicle in the commission of a felony.*

(j) *The name of the applicant does not appear in the database searched pursuant to subparagraph (2) of paragraph (b) of subsection 2.*

4. A transportation network company shall terminate an agreement with any driver who:

(a) Fails to submit to the transportation network company a change in his or her address, driver's license, motor vehicle registration or automobile liability insurance information within 30 days after the date of the change.

(b) Fails to immediately report to the transportation network company any change in his or her driving history or criminal history.

(c) Refuses to authorize the transportation network company to obtain and review an updated complete record of his or her driving history not less than once each year and an investigation of his or her criminal history not less than once every 3 years.

(d) Is determined by the transportation network company to be ineligible for an agreement pursuant to subsection 3 on the basis of any updated information received by the transportation network company.

Sec. 15. 1. In accordance with the provisions of this chapter, a transportation network company which holds a valid permit issued by the Commission pursuant to this chapter may, on behalf of a driver, charge a fare for transportation services provided to a passenger by the driver.

2. If a fare is charged, the company must disclose the rates charged by the company and the method by which the amount of a fare is calculated:

(a) On an Internet website maintained by the company; or

(b) Within the digital network or software application service of the company.

3. If a fare is charged, the company must offer to each passenger the option to receive, before the passenger enters the motor vehicle of a driver, an estimate of the amount of the fare that will be charged to the passenger.

4. A transportation network company may accept payment of a fare only electronically. A transportation network company or a driver shall not solicit or accept cash as payment of a fare.

5. A transportation network company shall not impose any additional charge for a driver who provides transportation services to a person with a physical disability because of the disability.

6. The Commission may adopt regulations establishing a maximum fare that may be charged during an emergency, as defined in NRS 414.0345.

Sec. 16. 1. A transportation network company shall not ~~enter into an agreement with~~ allow a driver ~~for the driver to provide transportation services~~ to be connected to potential passengers using the digital network or software application service of the company if the ~~driver operates a~~ motor vehicle ~~which~~ operated by the driver to provide transportation services:

(a) Is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle.

(b) Has less than four doors.

(c) Is designed to carry more than eight passengers, including the driver.

(d) Is a farm tractor, mobile home, recreational vehicle, semitractor, semitrailer, trailer, bus or tow car.

2. A transportation network company shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services to ensure that the vehicle complies with the provisions of subsection 1 and any regulations adopted by the Commission before allowing the driver to use the motor vehicle to provide transportation services and not less than once each year thereafter.

Sec. 17. ~~[1. Every transportation network company or driver shall continuously provide, during any period in which the driver is providing transportation services, insurance 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 or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375;~~

~~— (a) In an amount of not less than \$1,500,000 for bodily injury to or death of one or more persons and injury to or destruction of property of others in any one accident that occurs while the driver is providing transportation services;~~

~~— (b) In an amount of not less than \$50,000 for bodily injury to or death of one person in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services;~~

~~— (c) Subject to the minimum amount for one person required by paragraph (b), in an amount of not less than \$100,000 for bodily injury to or death of two or more persons in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services; and~~

~~— (d) In an amount of not less than \$25,000 for injury to or destruction of property of others in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services;~~

~~— for the payment of tort liabilities arising from the maintenance or use of the motor vehicle;~~

~~2. The insurance required by:~~

~~— (a) Paragraph (a) of subsection 1 may be provided through one or a combination of insurance policies provided by the transportation network company or the driver, or both.~~

~~— (b) Paragraphs (b), (c) and (d) of subsection 1, except as otherwise provided in subsection 3, must be provided by the driver. Insurance in the amounts required by paragraphs (b), (c) and (d) of subsection 1 must be provided by the driver, as required by NRS 485.185, while the driver is not logged into the digital network or software application service of the~~

~~transportation network company; not available to receive requests for transportation services and not providing transportation services.~~

~~3. Every transportation network company shall continuously provide, during any period in which the driver is providing transportation services, insurance 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 or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375, which meets the requirements of subsection 1 if the insurance provided by the driver:~~

- ~~(a) Lapses;~~
- ~~(b) Fails to meet the requirements of subsection 1;~~
- ~~(c) Denies a claim pursuant to the coverage required by subsection 1; or~~
- ~~(d) Otherwise does not exist or ceases to exist.~~

~~4. Notwithstanding the provisions of NRS 485.185 and 485.186 which require the owner or operator of a motor vehicle to provide insurance, insurance provided pursuant to this section shall be deemed to satisfy the requirements of NRS 485.185 or 485.186, as appropriate, regardless of whether the insurance is provided by the transportation network company or the driver, or both, if the insurance provided pursuant to this section otherwise satisfies the requirements of NRS 485.185 or 485.186, as appropriate.~~

~~5. An insurer may exclude or limit any coverage relating to the use of a motor vehicle to provide transportation services, or the availability of a motor vehicle for such use, in a policy insuring against liability arising out of the ownership, maintenance or use of any motor vehicle. An exclusion or limitation authorized by this subsection must be expressly and prominently stated in such a policy.~~

~~6. A transportation network company that provides any insurance for a motor vehicle pursuant to this section is not deemed to be the owner of the motor vehicle.] (Deleted by amendment.)~~

Sec. 18. 1. A transportation network company shall adopt a policy which prohibits discrimination against a passenger or potential passenger on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression.

2. A driver shall not discriminate against a passenger or potential passenger on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression.

3. A transportation network company shall provide to each passenger an opportunity to indicate whether the passenger requires transportation in a motor vehicle that is wheelchair accessible. If the company cannot provide the passenger with transportation services in a motor vehicle that is wheelchair accessible, the company must direct the passenger to an alternative provider or means of transportation that is wheelchair accessible, if available.

Sec. 19. *For each instance in which a driver provides transportation services to a passenger, the transportation network company which connected the passenger to the driver shall provide to the passenger, before the passenger enters the motor vehicle of a driver, a photograph of the driver who will provide the transportation services and the license plate number of the motor vehicle operated by the driver. The information required by this section must be provided to the passenger:*

1. *On an Internet website maintained by the company; or*
2. *Within the digital network or software application service of the company.*

Sec. 20. *A transportation network company which connected a passenger to a driver shall, within a reasonable period following the provision of transportation services by the driver to the passenger, transmit to the passenger an electronic receipt, which must include, without limitation:*

1. *A description of the point of origin and the destination of the transportation services;*
2. *The total time for which transportation services were provided;*
3. *The total distance traveled; and*
4. *An itemization of the fare, if any, charged for the transportation services.*

Sec. 21. 1. *A transportation network company shall maintain ~~f~~ ~~(a) The~~ the following records relating to the business of the company for a period of at least 3 years after the date on which the record is created:*

- ~~f(1)~~ *(a) Trip records;*
- ~~f(2)~~ *(b) Driver records and vehicle inspection records;*
- ~~f(3)~~ *(c) Records of each complaint and the resolution of each complaint; and*

~~f(4)~~ *(d) Records of each accident or other incident that involved a driver and was reported to the transportation network company. ~~f~~ and*

~~(b) The driver records and vehicle inspection records for each driver who enters into an agreement with the company for a period of at least 1 year after the date on which the driver ceases to have an agreement with the company.~~

2. *Each transportation network company shall ~~f~~ as determined to be necessary by the Commission or the Regulatory Operations Staff of the Commission to investigate complaints, promote public safety or ensure compliance with the provisions of this chapter. ~~f~~ make its records available for inspection by the Commission and the Regulatory Operations Staff of the Commission upon request ~~f~~ to investigate complaints, promote public safety and ensure compliance with the provisions of this chapter.*

Sec. 22. 1. *Each transportation network company shall:*

- (a) *Keep uniform and detailed accounts of all business transacted in this State and provide such accounts to the Commission upon request; and*

(b) On or before May 15 of each year, provide an annual report to the Commission regarding all business conducted by the company in this State during the preceding calendar year.

2. The Commission shall adopt regulations setting forth the form and contents of the information required to be ~~kept and~~ provided pursuant to subsection 1.

3. If the Commission determines that a transportation network company has failed to include information in its accounts or report required pursuant to subsection 1, the Commission shall notify the company to provide such information. A company which receives a notice pursuant to this subsection shall provide the specified information within 15 days after receipt of such a notice.

4. All information required to be provided pursuant to this section must be signed by an officer or agent of, or other person authorized by, the transportation network company under oath.

Sec. 23. 1. A driver shall not solicit or accept a passenger or provide transportation services to any person unless the person has arranged for the transportation services through the digital network or software application service of the transportation network company.

2. With respect to a passenger's destination, a driver shall not:

(a) Deceive or attempt to deceive any passenger who rides or desires to ride in the driver's motor vehicle.

(b) Convey or attempt to convey any passenger to a destination other than the one directed by the passenger.

(c) Take a longer route to the passenger's destination than is necessary, unless specifically requested ~~for~~ to do so by the passenger.

(d) Fail to comply with the reasonable and lawful requests of the passenger as to speed of travel and route to be taken.

3. A driver shall not, at the time the driver picks up a passenger, refuse or neglect to provide transportation services to any orderly passenger unless the driver can demonstrate to the satisfaction of the Commission that:

(a) The driver has good reason to fear for the driver's personal safety; or

(b) The driver is prohibited by law or regulation from carrying the person requesting transportation services.

Sec. 24. 1. A driver is prohibited from consuming, ~~for~~ using or being under the influence of any intoxicating liquor or controlled substance during any period in which the driver is providing transportation services on behalf of the transportation network company and any period in which the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not providing transportation services.

2. Each transportation network company shall:

(a) Provide notice of the provisions of subsection 1:

(1) On an Internet website maintained by the company; or

(2) *Within the digital network or software application service of the company; and*

(b) *Provide for the submission to the company of a complaint by a passenger who reasonably believes that a driver is operating a motor vehicle in violation of the provisions of subsection 1.*

3. *Upon receipt of a complaint submitted by a passenger who reasonably believes that a driver is operating a motor vehicle in violation of the provisions of subsection 1, a transportation network company shall immediately suspend the access of the driver to the digital network or software application service of the company and conduct an investigation of the complaint. The company shall not allow the driver to access the digital network or software application service of the company or provide transportation services on behalf of the company until after the investigation is concluded.*

4. *If a transportation network company determines, pursuant to an investigation conducted pursuant to subsection 3, that a driver has violated the provisions of subsection 1, the company shall terminate the agreement entered into with the driver and shall not allow the driver to access the digital network or software application service of the company.*

5. *Each transportation network company shall maintain a record of each complaint described in subsection 3 and received by the company for a period of not less than ~~two~~ 3 years after the date on which the complaint is received. The record must include, without limitation, the name of the driver, the date on which the complaint was received, a summary of the investigation conducted by the company and the results of the investigation.*

Sec. 25. 1. *Except as otherwise provided in this section, a transportation network company shall not disclose to any person the personally identifiable information of a passenger who received services from the company unless:*

(a) *The disclosure is otherwise required by law;*

(b) *The company determines that disclosure is required to protect or defend the terms of use of the services or to investigate violations of those terms of use; or*

(c) *The passenger consents to the disclosure.*

2. *A transportation network company may disclose to a driver the name and telephone number of a passenger for the purposes of facilitating correct identification of the passenger and facilitating communication between the driver and the passenger.*

Sec. 26. 1. *Each transportation network company shall ~~provide~~ :*

(a) *Provide notice of the contact information of the Division of Consumer Complaint Resolution of the Commission on an Internet website maintained by the company or within the digital network or software application service of the company ~~and~~ ; and*

(b) *Create a system to receive and address complaints from consumers which is available during normal business hours in this State.*

2. The Division of Consumer Complaint Resolution of the Commission shall accept, promptly investigate and attempt to resolve each complaint submitted to the Division by a person who alleges that a transportation network company or driver has violated the provisions of this chapter.

3. The Commission shall adopt regulations to establish procedures for investigating a complaint, holding a hearing and imposing disciplinary action, including, without limitation, the imposition of the penalties described in section 27 of this act, for a violation of this chapter.

Sec. 27. 1. If the Commission determines that a transportation network company or driver has violated the terms of a permit issued pursuant to this chapter or any provision of this chapter or any regulations adopted pursuant thereto, the Commission may, depending on whether the violation was committed by the company, the driver, or both:

(a) Suspend or revoke the permit issued to the transportation network company;

(b) Impose against the transportation network company an administrative fine in an amount not to exceed \$100,000 per violation;

(c) Prohibit a person from operating as a driver; or

(d) Impose any combination of the penalties provided in paragraphs (a), (b) and (c).

2. To determine the amount of an administrative fine imposed pursuant to paragraph (b) or (d) of subsection 1, the Commission shall consider:

(a) The size of the transportation network company;

(b) The severity of the violation;

(c) Any good faith efforts by the transportation network company to remedy the violation;

(d) The history of previous violations by the transportation network company; and

(e) Any other factor that the Commission determines to be relevant.

3. Notwithstanding the provisions of NRS 193.170, a person who violates any provision of sections 2 to 30, inclusive, of this act is not subject to any criminal penalty for such a violation.

Sec. 28. 1. Except as otherwise provided in subsection 2, the provisions of this chapter do not exempt any person from any law governing the operation of a motor vehicle upon the highways of this State.

2. A transportation network company which holds a valid permit issued by the Commission pursuant to this chapter, a driver who has entered into an agreement with such a company and a vehicle operated by such a driver are exempt from:

(a) The provisions of chapter 706 of NRS; and

(b) The provisions of chapter 704 relating to public utilities,

↳ to the extent that the services provided by the company or driver are within the scope of the permit.

~~3. Nothing in the provisions of this section prohibit the enforcement of chapter 704 or 706 of NRS against a person who is regulated pursuant to~~

~~those chapters for any services provided by such a person which are beyond the scope of a permit issued by the Commission pursuant to this chapter.]~~

Sec. 29. 1. Except as otherwise provided in subsection 2, a local governmental entity shall not:

(a) Impose any tax or fee on a transportation network company operating within the scope of a valid permit issued by the Commission pursuant to this chapter, a driver who has entered into an agreement with such a company or a vehicle operated by such a driver ~~for~~ or for transportation services provided by such a driver.

(b) Require a transportation network company operating within the scope of a valid permit issued by the Commission pursuant to this chapter to obtain from the local government any certificate, license or permit to operate within that scope or require a driver who has entered into an agreement with such a company to obtain from the local government any certificate, license or permit to provide transportation services.

(c) Impose any other requirement upon a transportation network company or a driver which is not of general applicability to all persons who operate a motor vehicle within the jurisdiction of the local government.

2. Nothing in this section:

(a) Prohibits a local governmental entity from requiring a transportation network company or driver to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government.

(b) Prohibits an airport or its governing body from requiring a transportation network company or a driver to:

(1) Obtain a permit or certification to operate at the airport;

(2) Pay a fee to operate at the airport; or

(3) Comply with any other requirement to operate at the airport.

(c) Exempts a vehicle operated by a driver from any tax imposed pursuant to NRS 354.705, 371.043 or 371.045.

3. The provisions of this chapter do not exempt any person from the requirement to obtain a state business license issued pursuant to chapter 76 of NRS.

Sec. 30. The Commission shall adopt such regulations as are necessary to carry out the provisions of this chapter.

Sec. 31. NRS 703.150 is hereby amended to read as follows:

703.150 The Commission shall supervise and regulate the operation and maintenance of public utilities and other persons named and defined in chapters 704, 704A and 708 of NRS *and sections 2 to 30, inclusive, of this act* pursuant to the provisions of those chapters.

Sec. 32. NRS 703.164 is hereby amended to read as follows:

703.164 1. The Commission may employ, or retain on a contract basis, legal counsel who shall:

(a) Except as otherwise provided in subsection 2, be counsel and attorney for the Commission in all actions, proceedings and hearings.

(b) Prosecute in the name of the Commission all civil actions for the enforcement of NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705 and 708 of NRS *and sections 2 to 30, inclusive, of this act* and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the Commission in the performance of its duties and the enforcement of NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705 and 708 of NRS ~~[]~~ *and sections 2 to 30, inclusive, of this act*.

2. Each district attorney shall:

(a) Prosecute any violation of chapter 704, 704A, 705, 708 or 711 of NRS for which a criminal penalty is provided and which occurs in the district attorney's county.

(b) Aid in any investigation, prosecution, hearing or trial held under the provisions of chapter 704, 704A, 705, 708 or 711 of NRS and, at the request of the Commission or its legal counsel, act as counsel and attorney for the Commission.

3. The Attorney General shall, if the district attorney fails or refuses to do so, prosecute all violations of the laws of this state by public utilities under the jurisdiction of the Commission and their officers, agents and employees.

4. The Attorney General is not precluded from appearing in or moving to intervene in any action and representing the interest of the State of Nevada in any action in which the Commission is a party and is represented by independent counsel.

Sec. 33. NRS 703.380 is hereby amended to read as follows:

703.380 1. Unless another administrative fine is specifically provided, a person, including, without limitation, a public utility, alternative seller, provider of discretionary natural gas service, provider of new electric resources or holder of any certificate of registration, license or permit issued by the Commission, or any officer, agent or employee of a public utility, alternative seller, provider of discretionary natural gas service, provider of new electric resources or holder of any certificate of registration, license or permit issued by the Commission who:

(a) Violates any applicable provision of this chapter or chapter 704, 704B, 705 or 708 of NRS, *or sections 2 to 30, inclusive, of this act*, including, without limitation, the failure to pay any applicable tax, fee or assessment;

(b) Violates any rule or regulation of the Commission; or

(c) Fails, neglects or refuses to obey any order of the Commission or any order of a court requiring compliance with an order of the Commission,

➤ is liable for an administrative fine, to be assessed by the Commission after notice and the opportunity for a hearing, in an amount not to exceed \$1,000 per day for each day of the violation and not to exceed \$100,000 for any related series of violations.

2. In determining the amount of the administrative fine, the Commission shall consider the appropriateness of the fine to the size of the business of the person charged, the gravity of the violation, the good faith of the person charged in attempting to achieve compliance after notification of a violation and any repeated violations committed by the person charged.

3. An administrative fine assessed pursuant to this section is not a cost of service of a public utility and may not be included in any new application by a public utility for a rate adjustment or rate increase.

4. All money collected by the Commission as an administrative fine pursuant to this section must be deposited in the State General Fund.

5. The Commission may bring an appropriate action in its own name for the collection of any administrative fine that is assessed pursuant to this section. A court shall award costs and reasonable attorney's fees to the prevailing party in an action brought pursuant to this subsection.

6. The administrative fine prescribed by this section is in addition to any other remedies, other than a monetary fine, provided by law, including, without limitation, the authority of the Commission to revoke a certificate of public convenience and necessity, license or permit pursuant to NRS 703.377.

Sec. 34. Chapter 690B of NRS is hereby amended by adding thereto the provisions set forth as sections 35 to 45, inclusive, of this act.

Sec. 35. As used in sections 35 to 45, inclusive, of this act, the words and terms defined in sections 36 to 39, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 36. "Driver" has the meaning ascribed to it in section 4 of this act.

Sec. 37. "Transportation network company" has the meaning ascribed to it in section 5 of this act.

Sec. 38. "Transportation network company insurance" means a policy of insurance that includes coverage specifically for the use of a vehicle by a driver pursuant to sections 35 to 45, inclusive, of this act.

Sec. 39. "Transportation services" has the meaning ascribed to it in section 6 of this act.

Sec. 40. The provisions of sections 35 to 45, inclusive, of this act do not apply to a person who is regulated pursuant to chapter 704 or 706 of NRS.

Sec. 41. Before allowing a natural person to be connected to a potential passenger using the digital network or software application service of a transportation network company to provide transportation services as a driver, a transportation network company shall, in writing:

1. Disclose the insurance coverage and limits of liability that the transportation network company provides for a driver while the driver is providing transportation services; and

2. Notify the person that his or her insurance for the operation of a motor vehicle required pursuant to NRS 485.185 may not provide coverage for the use of a motor vehicle to provide transportation services.

Sec. 42. 1. Every transportation network company or driver shall continuously provide, during any period in which the driver is providing transportation services, transportation network company insurance 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 or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375:

(a) In an amount of not less than \$1,500,000 for bodily injury to or death of one or more persons and injury to or destruction of property of others in

any one accident that occurs while the driver is providing transportation services;

(b) In an amount of not less than \$50,000 for bodily injury to or death of one person in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services;

(c) Subject to the minimum amount for one person required by paragraph (b), in an amount of not less than \$100,000 for bodily injury to or death of two or more persons in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services; and

(d) In an amount of not less than \$25,000 for injury to or destruction of property of others in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services,

➡ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

2. The transportation network company insurance required by subsection 1 may be provided through one or a combination of insurance policies provided by the transportation network company or the driver, or both.

3. Every transportation network company shall continuously provide, during any period in which the driver is providing transportation services, transportation network company insurance 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 or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375, which meets the requirements of subsection 1 as primary insurance if the insurance provided by the driver:

(a) Lapses; or

(b) Fails to meet the requirements of subsection 1.

4. Notwithstanding the provisions of NRS 485.185 and 485.186 which require the owner or operator of a motor vehicle to provide insurance, transportation network company insurance shall be deemed to satisfy the requirements of NRS 485.185 or 485.186, as appropriate, regardless of whether the insurance is provided by the transportation network company or the driver, or both, if the transportation network company insurance otherwise satisfies the requirements of NRS 485.185 or 485.186, as appropriate.

5. In addition to the coverage required pursuant to subsection 1, a policy of transportation network company insurance may include additional coverage, including, without limitation, coverage for medical payments, coverage for uninsured or underinsured motorists, comprehensive coverage and collision coverage.

6. An insurer who provides transportation network company insurance shall not require a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, to deny a claim before the transportation network company insurance provides coverage for a claim.

7. An insurer who provides transportation network company insurance has a duty to defend and indemnify the driver and the transportation network company.

8. A transportation network company that provides transportation network company insurance for a motor vehicle is not deemed to be the owner of the motor vehicle.

Sec. 43. 1. A policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, is not required to include transportation network company insurance. An insurer providing a policy which excludes transportation network company insurance does not have a duty to defend or indemnify a driver for any claim arising during any period in which the driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services.

2. An insurer who provides a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, may include transportation network company insurance in such a policy. An insurer may charge an additional premium for the inclusion of transportation network company insurance in such a policy.

3. An insurer who:

(a) Defends or indemnifies a driver for a claim arising during any period in which the driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services; and

(b) Excludes transportation network company insurance from the policy of insurance for the operation of a motor vehicle provided to the driver.

↪ has the right of contribution against other insurers who provide coverage to the driver to satisfy the coverage required by section 42 of this act at the time of the loss.

Sec. 44. In any investigation relating to tort liability arising from the operation of a motor vehicle, each transportation network company and driver, and each insurer providing transportation network company insurance to a transportation network company or driver, who is involved in the underlying incident shall cooperate with any other party to the incident and any other insurer involved in the investigation and share information, including, without limitation:

1. The date and time of an accident involving a driver.
2. The dates and times that the driver involved in an accident logged into the digital network or software application service of the transportation network company for a period of 12 hours immediately preceding and 12 hours immediately following the accident.
3. The dates and times that the driver involved in an accident logged out of the digital network or software application service of the transportation network company for a period of 12 hours immediately preceding and 12 hours immediately following the accident.
4. A clear description of the coverage, exclusions and limits provided under any policy of transportation network company insurance which applies.

Sec. 45. 1. A driver shall carry proof of coverage under a policy of transportation network company insurance at all times when the driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services.

2. A driver shall provide proof of coverage under a policy of transportation network company insurance and disclose whether he or she was logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services at the time of an accident upon request to a law enforcement officer and to any party with whom the driver is involved in an accident.

~~{Sec. 34.}~~ Sec. 46. 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 July 1, 2015, for all other purposes.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Amendment No. 465 to Senate Bill No. 439 does the following: 1) clarifies the definition of "transportation services"; 2) clarifies that the definition of a TNC does not remove the current exemption for nonemergency medical transportation; 3) deletes the renewal of a permit by the PUCN and authorize a TNC to make its digital network or software application service available to one or more drivers to receive connections to potential passengers from the company

in exchange for the payment of a fee by the driver to the company; 4) mirrors similar statutory language applicable to other entities regulated by the PUCN; 5) adds a fee of 25 cents for each trip that a TNC driver provides to a passenger; 6) deletes provisions relating to permit renewals; 7) replaces "driver" with "person" to clarify that the person is not yet a driver for the company; section 8 prohibits a TNC from allowing a driver to be connected to potential passengers using the TNC software application if the driver operates a motor vehicle that is not in compliance with all federal, State and local laws governing the operation and maintenance of the motor vehicle; 8) requires a TNC to comply with any regulations adopted by the PUCN relating to the inspection of motor vehicles; 9) deletes section 17, which establishes certain requirements concerning the provision of insurance for the payment of tort liabilities arising from the operation of a motor vehicle by a driver who provides transportation services; 10) amends the bill to delete subsection 1(b) of section 21; 11) limits the right of the PUCN to inspect a TNC's records and vehicles necessary to investigate complaints and promote compliance with the provisions of this chapter; 12) amends section 24 to include "being under the influence of" any intoxicating liquor or controlled substances; 13) changes the retention period of complaints kept by a TNC relating to a driver being under the influence of any intoxicating liquor or controlled substances from two years to three years; 14) requires a TNC to create a system to receive and address consumer complaints by the PUCN that is available during normal business hours; 15) clarifies that a driver is required to obtain all applicable State and local business licenses; 16) allows an airport or its governing body to retain its ability to impose additional operating requirements on TNCs and its drivers; and 17) add new provisions relating to the requirements of a TNC or driver to continuously provide insurance subject to certain requirements for coverage used by a driver in connection with a TNC.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 440.

Bill read second time.

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

Amendment No. 486.

SUMMARY—Revises provisions relating to insurance. (BDR 57-983)

AN ACT relating to insurance; revising provisions relating to casualty insurance for certain uses of motor vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires every owner or operator of a motor vehicle which is registered in this State to continuously provide insurance for the payment of tort liabilities arising from the maintenance or use of the motor vehicle subject to certain requirements for coverage. (NRS 485.185, 485.186) This bill provides different requirements for coverage for a motor vehicle which is used by a driver in connection with a transportation network company. Section 4 of this bill defines a "transportation network company" as an entity that uses a digital network or software application service to connect passengers to drivers who can provide transportation services. Section 6 of this bill defines "transportation services" as the transportation by motor vehicle of one or more passengers between points chosen by the passenger or passengers and prearranged with a driver through the use of the digital network or software application service of a transportation network company.

Section 7 of this bill requires a transportation network company to make certain disclosures to a person before ~~entering into an agreement with~~ allowing that person to provide transportation services as a driver. Section 8 of this bill requires a transportation network company or a driver to continuously provide insurance subject to certain requirements for coverage. Section 8 specifies ~~whether~~ that the transportation network company insurance may be provided by the transportation network company, the driver or both. Section 8 requires the transportation network company to provide certain insurance which provides coverage as primary insurance if the insurance provided by the driver is insufficient for certain reasons. Section 8 allows a policy of transportation network company insurance to include certain additional coverages. Section 8 prohibits an insurer who provides a policy of transportation network company insurance from requiring a driver's personal policy of automobile insurance to deny a claim before providing coverage.

Section 9 of this bill provides that a personal policy of automobile insurance is not required to include transportation network company insurance. Section 9 authorizes an insurer to include transportation network company insurance in such a policy and allows the insurer to charge an additional premium for doing so.

Section 10 of this bill requires a transportation network company, a driver and an insurer who provides transportation network company insurance to cooperate in the investigation of an accident. Section 11 of this bill requires a driver: (1) to carry proof of transportation network company insurance at all times when the driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services; and (2) to provide proof of coverage and disclose certain information to a law enforcement officer and to any other party with whom the driver is involved in an accident.

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

Section 1. Chapter 690B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in sections 2 to 11, inclusive, of this act, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Driver" means a natural person who:*

1. *Operates a motor vehicle that is owned, leased or otherwise authorized for use by the person; and*

2. *Enters into an agreement with a transportation network company to receive connections to potential passengers and related services from the transportation network company in exchange for the payment of a fee to the transportation network company.*

Sec. 4. "Transportation network company" means an entity that uses a digital network or software application service to connect a passenger to a driver who can provide transportation services to the passenger.

Sec. 5. "Transportation network company insurance" means a policy of insurance that includes coverage specifically for the use of a vehicle by a driver pursuant to sections 2 to 11, inclusive, of this act.

Sec. 6. "Transportation services" means the transportation by a driver of one or more passengers between points chosen by the passenger or passengers and prearranged through the use of the digital network or software application service of a transportation network company. The term includes only the period beginning when a driver accepts a request for transportation received through the digital network or software application service of a transportation network company and ending when the passenger or passengers exit the motor vehicle operated by the driver.

Sec. 6.5. The provisions of sections 2 to 11, inclusive, of this act do not apply to a person who is regulated pursuant to chapter 704 or 706 of NRS.

Sec. 7. ~~Before entering into an agreement with~~ allowing a natural person to be connected to a potential passenger using the digital network or software application service of a transportation network company to provide transportation services as a driver, a transportation network company shall, in writing:

1. Disclose the insurance coverage and limits of liability that the transportation network company provides for a driver while the driver is providing transportation services; and

2. Notify the person that his or her insurance for the operation of a motor vehicle required pursuant to NRS 485.185 may not provide coverage for the use of a motor vehicle to provide transportation services.

Sec. 8. 1. Every transportation network company or driver shall continuously provide, during any period in which the driver is providing transportation services, transportation network company insurance 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 ~~for~~ or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375:

(a) In an amount of not less than \$1,500,000 for bodily injury to or death of one or more persons and injury to or destruction of property of others in any one accident that occurs while the driver is providing transportation services;

(b) In an amount of not less than \$50,000 for bodily injury to or death of one person in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services;

(c) Subject to the minimum amount for one person required by paragraph (b), in an amount of not less than \$100,000 for bodily injury to or

death of two or more persons in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services; and

(d) In an amount of not less than \$25,000 for injury to or destruction of property of others in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services,

➤ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

2. The transportation network company insurance required by ~~1~~

~~(a) Paragraph (a) of~~ subsection 1 may be provided through one or a combination of insurance policies provided by the transportation network company or the driver, or both.

~~[(b) Paragraphs (b), (c) and (d) of subsection 1, except as otherwise provided in subsection 3, must be provided by the driver. Insurance in the amounts required by paragraphs (b), (c) and (d) of subsection 1 must be provided by the driver, as required by NRS 485.185, while the driver is not logged into the digital network or software application service of the transportation network company, not available to receive requests for transportation services and not providing transportation services.]~~

3. Every transportation network company shall continuously provide, during any period in which the driver is providing transportation services, transportation network company insurance 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 or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375, which meets the requirements of subsection 1 as primary insurance if the insurance provided by the driver:

(a) Lapses; or

(b) Fails to meet the requirements of subsection 1 ~~1~~

~~(c) Denies a claim pursuant to the coverage required by subsection 1; or~~

~~(d) Otherwise does not exist or ceases to exist.]~~

4. Notwithstanding the provisions of NRS 485.185 and 485.186 which require the owner or operator of a motor vehicle to provide insurance, ~~1~~ transportation network company insurance shall be deemed to satisfy the requirements of NRS 485.185 or 485.186, as appropriate, regardless of whether the insurance is provided by the transportation network company or the driver, or both, if the transportation network company insurance otherwise satisfies the requirements of NRS 485.185 or 485.186, as appropriate.

5. In addition to the coverage required pursuant to subsection 1, a policy of transportation network company insurance may include additional

coverage, including, without limitation, coverage for medical payments, coverage for uninsured or underinsured motorists, comprehensive coverage and collision coverage.

6. ~~Except as otherwise provided in subsection 3, an~~ An insurer who provides transportation network company insurance shall not require a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, to deny a claim before the transportation network company insurance provides coverage for a claim.

7. An insurer who provides transportation network company insurance has a duty to defend and indemnify the driver and the transportation network company.

8. A transportation network company that provides transportation network company insurance for a motor vehicle is not deemed to be the owner of the motor vehicle.

Sec. 9. 1. A policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, is not required to include transportation network company insurance. ~~and, unless the insurer includes transportation network company insurance in the policy pursuant to subsection 2, the~~ An insurer providing ~~such~~ a policy which excludes transportation network company insurance does not have a duty to defend or indemnify a driver for any claim arising during any period in which the driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services.

2. An insurer who provides a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, may include transportation network company insurance in such a policy. An insurer may charge an additional premium for the inclusion of transportation network company insurance in such a policy.

3. An insurer who:
(a) Defends or indemnifies a driver for a claim arising during any period in which the driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services; and

(b) Excludes transportation network company insurance from the policy of insurance for the operation of a motor vehicle provided to the driver,
↪ has the right of contribution against other insurers who provide coverage to the driver to satisfy the coverage required by section 8 of this act at the time of the loss.

Sec. 10. In any investigation relating to tort liability arising from the operation of a motor vehicle, each transportation network company and driver, and each insurer providing transportation network company insurance to a transportation network company or driver, who is involved in the underlying incident shall cooperate with any other party to the incident

and any other insurer involved in the investigation and share information, including, without limitation : ~~f, the dates and times that~~

1. ~~f.4.1~~ *The date and time of an accident ~~occurred~~ involving a driver.*
2. ~~f.4.1~~ *The dates and times that the driver involved in an accident logged into the digital network or software application service of the transportation network company ~~f~~ for a period of 12 hours immediately preceding and 12 hours immediately following the accident.*
3. ~~f.4.1~~ *The dates and times that the driver involved in an accident logged out of the digital network or software application service of the transportation network company ~~f~~ for a period of 12 hours immediately preceding and 12 hours immediately following the accident.*
4. *A clear description of the coverage, exclusions and limits provided under any policy of transportation network company insurance which applies.*

Sec. 11. 1. A driver shall carry proof of coverage under a policy of transportation network company insurance at all times when the driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services.

2. A driver shall provide proof of coverage under a policy of transportation network company insurance and disclose whether he or she was logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services at the time of an accident upon request to a law enforcement officer and to any party with whom the driver is involved in an accident.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 486 to Senate Bill No. 440 adds new provisions relating to the requirements of a transportation network company (TNC) or driver to continuously provide insurance subject to certain requirements for coverage used by a driver in connection with a TNC.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 9.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 9 requires the Nevada Gaming Commission to adopt regulations encouraging manufacturers to develop and deploy gaming devices that incorporate innovative, alternative and advanced technologies, including games of skill and hybrid games that may incorporate player skill in combination with other elements. The bill also requires regulation of associated equipment and support systems. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 9:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 9 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 54.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 54 provides that for all category A felonies—except murder or sexual assault—and for certain category B felonies, if a comprehensive risk assessment conducted by the Division of Public and Behavioral Health indicates that the offender does not require the level of security provided by a forensic facility, a prosecuting attorney's request for a hearing on whether the offender should be committed to the custody of the Division must be dismissed.

The bill also removes the requirement that a court find by clear and convincing evidence that a person no longer has a mental disorder to be eligible for discharge from conditional release.

This bill is effective upon passage and approval.

Roll call on Senate Bill No. 54:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 54 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 56.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 56 grants the governing body of a city the authority to adopt ordinances pursuant to which officers, employees or other designees of the city may cover or remove graffiti placed on certain portions of residential property with the property owner's consent, or without the owner's consent, if the city is unable to contact or notify the owner after following certain steps.

Additionally, the bill provides that a city may adopt ordinances pursuant to which the owner of a nonresidential property may be ordered to cover or remove graffiti following a notification process and, if requested by the owner, a hearing and possible appeal. If the property owner does not request a hearing, or does not prevail through the hearing process, the city may cover or remove the graffiti and may recover the costs of doing so through a special assessment or lien. Any county or city that has a graffiti abatement program in place may continue it under the provisions of this bill.

The bill also adds "estrays" and "livestock" to the list of property upon which the offense of graffiti can be committed; excludes from the definition of graffiti any item affixed to property which may be removed—without defacing the property—by hand, with common cleaning agents, and without the use of a decal removal tool; adds a carbide-tipped instrument to the list of graffiti implements; and expands the allowable uses of money held in a city's graffiti abatement fund to include supplies or other costs associated with graffiti abatement. This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 56:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 56 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 154.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 154 requires the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations establishing the qualifications necessary for a community manager to renew his or her certificate. The regulations must require that a certificate be renewed biennially and must set the number of hours of continuing education necessary for renewal. The regulations also must allow that up to five hours of the total hours required may be satisfied by observing a disciplinary hearing conducted by the Commission, or by observing a mediation or arbitration that arises from a claim within the Real Estate Division's jurisdiction. Education of this type must be designated as instruction relating to Nevada laws and regulations governing common-interest communities and community managers.

Provisions of this measure requiring the adoption of regulations or conducting other necessary administrative tasks are effective upon passage and approval. All other provisions of the bill are effective on January 1, 2016.

Roll call on Senate Bill No. 154:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 154 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 155.

Bill read third time.

Remarks by Senator Goicoechea.

Senate Bill No. 155 authorizes a farmer or rancher to claim a refund of 80 percent of the taxes paid by the farmer or rancher on bulk purchases of special fuel, which is consistent with provisions of current law that provide for a similar refund on bulk purchases of motor vehicle fuel. The bill defines bulk purchases as purchases of more than 50 gallons of special fuel which are not placed directly into the tanks of motor vehicles.

The bill consolidates into the term "implement of husbandry" the vehicles and agricultural equipment that are described in various provisions of existing law as "farm equipment," "farm tractors" and "implements of husbandry."

The bill requires a person who engages in the operation, towing and transportation of implements of husbandry on the highways of this State, to apply for and obtain a farm license plate which must be displayed on the implement of husbandry and pay the Department of Motor Vehicles a nonrefundable fee of \$100 and also carry insurance.

The bill additionally provides that if a vehicle is not able to run 25 mph on a State highway, then it can use a slow moving vehicle placard. The effective date is January 1, 2016, to allow them to get the regulations and all the administrative tasks in place. It is a good bill. It allows for protection. You have insured farm tractors on the road.

Roll call on Senate Bill No. 155:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 155 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 160.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 160 provides that an owner, lessee or occupant of any premises does not owe a duty of care to and is not liable for physical harm to a trespasser, except when: 1) the owner, lessee or occupant willfully or wantonly causes harm to the trespasser; 2) the owner, lessee, or occupant fails to exercise reasonable care to prevent harm to the trespasser after discovering the trespasser's presence in a place of danger on the premises; and 3) the trespasser is a child who is injured by an artificial condition on the premises and certain other conditions exist; 4) this bill also provides that a person who creates, sponsors, owns or produces public art, or the owner, lessee or occupant of any estate or interest in any premises where such art is displayed is not liable for the death or injury of a person or for damage to property caused or sustained by a person who: defaces or destroys, or attempts to deface or destroy, public art; uses the public art in an unintended manner; or fails to heed posted warnings or instructions concerning the public art if such warnings are posted to warn the public against any foreseeable conditions or any misuse of the public art that may pose an unreasonable risk of death or serious bodily injury.

This bill is effective upon passage and approval.

Roll call on Senate Bill No. 160:

YEAS—18.

NAYS—Spearman, Woodhouse—2.

EXCUSED—Smith.

Senate Bill No. 160 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 268.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 268 requires the Director and Deputy Director of the Department of Veterans Services to develop plans and programs to assist veterans who have suffered sexual trauma while on active duty or during military training. The measure creates in the State General Fund the Account to Assist Veterans Who Have Suffered Sexual Trauma and prescribes the uses of the money in the Account. The Director is required to submit to the Interim Finance Committee on or before August 1 of each year a report detailing the expenditures made from the Account.

This measure is effective on July 1, 2015.

Roll call on Senate Bill No. 268:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 268 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 304.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 304 expressly allows a violation of the existing requirement to wear a safety belt while riding in a taxicab to be considered: 1) as negligence or as causation in any civil action or as negligent or reckless driving; and 2) as misuse or abuse of a product or as causation in any action brought to recover damages for injury to a person or property resulting from the manufacture, distribution, sale or use of a product.

This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 304:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 304 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 348.

Bill read third time.

Remarks by Senator Roberson.

Senate Bill No. 348 exempts proceeds paid to the State, or a political subdivision of the State, for the purpose of providing security for or funding the construction of public infrastructure from the requirement that certain abandoned property be delivered to the State Treasurer in his or her capacity as Administrator of Unclaimed Property. These provisions apply only to public infrastructure proceeds that are in the control of the State or a political subdivision of the State on or after July 1, 2015.

The bill also enacts an exception to the Uniform Unclaimed Property Act for "business-to-business" transfers which are limited to credit memoranda, overpayments, credit balances, deposits, unidentified remittances, non-refunded overcharges, discounts, refunds and rebates due or owing from one business association to another business association. The businesses in question must have had an ongoing business relationship within the last three years. This bill is effective July 1, 2015.

Roll call on Senate Bill No. 348:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 348 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 409.

Bill read third time.

Remarks by Senator Lipparelli.

Senate Bill No. 409 creates an exception in State law similar to that in federal law with regard to credit reporting. The bill allows a credit reporting agency to report on bankruptcies older than

ten years and other civil judgments older than seven years, incurred by a person who is seeking employment with a gaming licensee or employment in a position that is directly connected to the licensee's operations. The bill also clarifies that credit reporting agencies are not required to delete records of felony convictions.

This bill is effective upon passage and approval.

Roll call on Senate Bill No. 409:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 409 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 417.

Bill read third time.

Remarks by Senator Goicoechea.

Senate Bill No. 417 prohibits the use of information obtained from a radio signal or transmitting device to harass or take a game mammal, bird or other wildlife, or for any other purpose, without written authorization from the Department of Wildlife. The bill also prohibits the use of location information obtained from Department records within one year after collection to harass or take any game mammal, bird or other wildlife.

This bill is effective on July 1, 2015.

Roll call on Senate Bill No. 417:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 417 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 453.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 453 makes technical changes to eliminate duplications and provide for consistency in Nevada's laws governing the enforcement of loans secured by deeds of trust or mortgages on real property and related proceedings. This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 453:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 453 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

Senator Settlemeyer requested that the following remarks be entered in the Journal.

SENATOR SETTELMEYER:

My guests, today, are Ellen Asatryan and Valery Mkrtoumian, and they are here to commemorate Armenian Genocide Recognition Day at the Legislature. Today, we recognize the centurion anniversary of the Armenian genocide. To give you some history, the native homeland for the Armenian people is Syria, at the border of Europe and Asia, between the Black and Caspian Seas. After centuries of rule by the Ottoman Empire, the new Turkish government came into power in the early 20th century. In 1915, the new Turkish government forcefully removed the Armenian people from their homes and forced many to death marches across the Mesopotamian desert, resulting in the death of over 1.5 million people. Nevada is home to a large Armenian-American population that has made contributions to our society in the areas of business, agriculture and academia. I ask that you join with me in recognizing those who are visiting today. We honor their determination in overcoming adversity and giving our continued support to their success in Nevada.

SENATOR WOODHOUSE:

Today, April 14, is Equal Pay Day. This date symbolizes how far into the year women must work in order to catch-up to what a man has made the previous year; that is 104 days. Nationally, full-time working women still face a wage gap of about 77 cents to the dollar that a man makes. In Nevada, we do a little better, but women are still only making 85 cents to the dollar, and the pay gap is significantly wider for women of color.

The gender pay gap is not only bad for women, it is bad for their families. An estimated 50 percent of households rely on a woman as the breadwinner. At each of your desks, today, you will find a candy bar—a Pay Day candy bar—to remind us that the wage gap persists, and we owe it to Nevada's women to take the strongest possible steps to narrow that gap. Please enjoy your candy bar.

SENATOR SMITH:

Thank you, Mr. President. Yesterday, we passed the Caregiver Act. I did not speak on the bill because my guest was not here, yesterday. I have a brand new respect for people who take care of family members every day. Thank you, Erin, and my husband, Greg. As you all know, they have been here every step of the way. Please, thank anybody you know who is taking care of another person.

SENATOR BROWER:

I would like to make comments on a couple of things. First, to my colleague from Sparks, any one of us who has been through, in some fashion, what you and your family have been going through knows exactly what you mean. We could not agree more, and I would say to my colleague, if you made it through last Wednesday without any tears, you may be the only one in the Chamber who did, including the audience, the media and everyone else. So, once again, welcome back.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Brower, the privilege of the floor of the Senate Chamber for this day was extended to Gabriel Andrade Gomez, Anessa Arcangeli, Marlen Badillo Delgado, Oscar Baltazar Vivero, Jayden-Flo Caluya, Fernanda Cardenas, Jaidyn Carlile, Addriana Cox, Chelsi Crank, Kevin De La Luz Jaramillo, Fatima Diaz-Lopez, Ryan Emerson, Luz Escobar Ruiz, Alana Everidge, Ebony Foster, Javier Gandara, Sara Garcia, Amiya Gonzales, Amber Grant, Precilia Guardado, Dominick Guillen, Samantha Guzman Hernandez, Christopher Hidalgo, Erica Hood, Kodi Johnson, Eduardo Juarez, Samantha Martinez, Tristan McFarlin, Lilly McKeen, Bersain Medina Diaz, Dominic Miller, Nathaly Montes Rico, Giovvani Oliva, Baleria Pacheco-Avila, Ava Polar, Danika Reynolds, Omar Rodriguez, Bailey Rose, Irene Rubio Gama, Daisy Ruiz, Krysta Ruiz

Contreras, Jaylynn Sather-Bergstrom, Jennifer Sather-Bergstrom, Brice Sheets, Zakaria Simpson, Heidi Smith, Ruby Sotelo, Freedom Spearman, Alexis Stellingwerf, Noah Stidger, Savannah Toney, Edwin Torres Arellano, Esmeralda Trujillo, Guadalupe Trujillo, Veronica Trujillo, Elizabeth Valadez Hernandez, Andrew Vanhorn, Luis Vasquez Lopez, Elenoa Vatikani, Joshua Villegas Velasco, Riley Virgil, Jayden Wilson, Jenell Parra Estrada and Oswyn De Leon Lemus.

On request of Senator Settelmeyer, the privilege of the floor of the Senate Chamber for this day was extended to Andy Armenian, Herz Armenian, Ellen Asatryan, Vartan Barsoumian, R.J. Boyajian, Helene Faulkner, Brian Hardy, Sevay Mardiessian, Valery Mkrtoumian, Harutyun Pakhamyan, Ara Tcholakian, Albert Cavasos, Kenneth Ledbetter, Dejohn Mitchell, Alejandro Quiroz, MiguelTejeda, Benjamin Chanes, Russell Enz, Thomas Funez, Michael Lindstrom, Robert Mejia, Valentin Michel, Joshua Curasi, Marlon Dixon, Jamal Jackson, Richard Martinez, Angel Mejia, Delshone Staples, Elen Asatryan and Valery Mkrtoumian.

On request of President Hutchison, the privilege of the floor of the Senate Chamber for this day was extended to Mike McDonald.

Senator Roberson moved that the Senate adjourn until Wednesday, April 15, 2015, at 11:00 a.m.

Motion carried.

Senate adjourned at 10:23 p.m.

Approved:

MARK A. HUTCHISON

President of the Senate

Attest: CLAIRE J. CLIFT

Secretary of the Senate