THE SEVENTY-FIFTH DAY

CARSON CITY (Friday) April 17, 2015

Senate called to order at 12:39 p.m.

President Hutchison presiding.

Roll called.

All present.

Prayer by Rajan Zed.

Om
Bhur bhuvah svah
Tat Savitur varenyam
Bhargo devasya dhimahi
Dhiyo you nah prachodayat

We meditate on the transcendental Glory of the Deity Supreme, who is inside the heart of the earth, inside the life of the sky and inside the soul of the Heaven. May He stimulate and illuminate our minds.

Asato ma sad gamaya
Tamaso ma jyotir gamaya
Mrityor mamrtam gamaya
Lead me from the unreal to the Real.
Lead me from the darkness to the Light.
Lead me from death to immortality.
Niyatam kuru karma tvam karma jyaya hyakarmana
Sarirayatrapi ca te na prasiddhyedakamanah
Yajnarthatkarmano'nyatra loko'yam karmabandhanah
Tadartham karma kaunteya muktasangah samacara

Fulfill all your duties; action is better than inaction. Even to maintain your body, you are obligated to act. Selfish action imprisons the world.

Act selflessly, without any thought of personal profit.
Karmanaiva hi samsiddhimasthita janakadayah
Lokasangrahamevapi sampasyankartumarhasi

Strive constantly to serve the welfare of the world; by devotion to selfless one attains the supreme goal of life. Do your work with the welfare of others always in mind.

Om saha naavavatu
Saha nau bhunaktu
Saha viiryan karavaavahai
Tejasvi naavadhiitamastu
Maa vidhvishhaavahai
May we be protected together.
May we be nourished together.
May we work together with great vigor.
May our study be enlightening.
May no obstacle arise between us.
Samani va akutih
Samana hrdayani vah
Samanam astu vo mano
Yatha vah susahasti
United your resolve, united your hearts,
May your spirits be at one,
That you may long together dwell
In unity and concord!
Om Shanti, Shanti, Shanti.

Peace, Peace, Peace be unto all.

OM.

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. 67, 223, 286, 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. SETTELMEYER, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 427, 469, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

BEN KIECKHEFER, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 81, 185, 254, 285, 406, 481, 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 were referred Senate Bills Nos. 248, 394, 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 was referred Senate Bill No. 321, 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 were referred Senate Bills Nos. 331, 433; Senate Joint Resolution No. 21, 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 Natural Resources, to which were referred Senate Bills Nos. 305, 488, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DONALD G. GUSTAVSON, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 16, 2015

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 219, 301, 384, 391, 422, 424, 425, 428, 444, 447, 451, 456; Assembly Joint Resolution No. 8.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 16, 32, 65, 81, 93, 129, 164, 179, 189, 214, 223, 236, 252, 287, 288, 351, 352, 415, 449, 457; Assembly Joint Resolution No. 1.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 109, Amendment No. 176, and respectfully requests your honorable body to concur in said amendments.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that, for this legislative day, all necessary rules be suspended, and that all bills and joint resolutions amended on the General File be immediately placed on third reading and final passage, upon return from reprint.

Motion carried.

Senator Roberson moved that Senate Bill No. 108 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Roberson moved that Senate Bill No. 252 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Roberson moved that the action whereby Amendment No. 608 to Senate Bill No. 241 was adopted be rescinded.

Motion carried.

Senator Kieckhefer moved that Senate Bill No. 386 be taken from the General File and re-referred to the Committee on Finance.

Motion carried.

Assembly Joint Resolution No. 1.

Senator Kieckhefer moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Joint Resolution No. 8.

Senator Kieckhefer moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 16.

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

Motion carried.

Assembly Bill No. 32.

Senator Kieckhefer moved that the bill be referred to the Committee on Revenue and Economic Development.

Motion carried.

Assembly Bill No. 65.

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

Motion carried.

Assembly Bill No. 81.

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

Motion carried.

Assembly Bill No. 93.

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

Motion carried.

Assembly Bill No. 129.

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

Motion carried.

Assembly Bill No. 164.

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

Motion carried.

Assembly Bill No. 179.

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

Motion carried.

Assembly Bill No. 189.

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

Motion carried.

Assembly Bill No. 214.

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

Motion carried.

Assembly Bill No. 219.

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

Motion carried.

Assembly Bill No. 223.

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

Motion carried.

Assembly Bill No. 236.

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

Motion carried.

Assembly Bill No. 252.

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

Motion carried.

Assembly Bill No. 287.

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

Motion carried.

Assembly Bill No. 288.

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

Motion carried.

Assembly Bill No. 301.

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

Motion carried.

Assembly Bill No. 351.

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

Motion carried.

Assembly Bill No. 352.

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

Motion carried.

Assembly Bill No. 384.

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

Motion carried.

Assembly Bill No. 391.

Senator Kieckhefer moved that the bill be referred to the Committee on Revenue and Economic Development.

Motion carried.

Assembly Bill No. 415.

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

Motion carried.

Assembly Bill No. 422.

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

Motion carried.

Assembly Bill No. 424.

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

Motion carried.

Assembly Bill No. 425.

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

Motion carried.

Assembly Bill No. 428.

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

Motion carried.

Assembly Bill No. 444.

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

Motion carried.

Assembly Bill No. 447.

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

Motion carried.

Assembly Bill No. 449.

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

Motion carried.

Assembly Bill No. 451.

Senator Kieckhefer moved that the bill be referred to the Committee on Revenue and Economic Development.

Motion carried.

Assembly Bill No. 456.

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

Motion carried.

Assembly Bill No. 457.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 67.

Bill read second time.

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

Amendment No. 32.

SUMMARY—Revises provisions governing the regulation of insurance. (BDR 57-371)

AN ACT relating to insurance; adopting the provisions of various model laws and acts of the National Association of Insurance Commissioners; setting forth the manner in which the Commissioner of Insurance may adopt the *Valuation Manual* adopted by the National Association of Insurance Commissioners; revising provisions regarding the confidentiality of certain information and materials provided to the Division of Insurance of the Department of Business and Industry; revising provisions regarding the requirements for annual financial statements filed by self-insured groups for workers' compensation; revising provisions regarding licensing requirements; revising provisions regarding the cash value of policies of life insurance; allowing insurer's to issue electronic proof of insurance certificates for automobiles; revising provisions governing state-chartered risk retention groups; authorizing the Division to access certain sealed records of licensees and applicants for licenses; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-18 of this bill make changes to chapter 681A of NRS in conformance with amendments to the National Association of Insurance Commissioners' Credit for Reinsurance Model Law. Sections ~~[23-39]~~ 23-39.5 and 41 of this bill adopt certain provisions of the National Association of Insurance Commissioners' Standard Valuation Law. Section 33.7 of this bill describes the *Valuation Manual* and sets forth the criteria for determining the date on which the *Valuation Manual* becomes operative. Sections 33.3 and 33.7-36 of this bill describe the minimum standards for the valuation of reserves associated with policies and contracts of insurance issued on or after the operative date of the *Valuation Manual*. Section 33.5 of this bill sets forth the requirements for actuarial opinions of reserves prepared after the operative date of the *Valuation Manual*. Sections 40.15-40.43 of this bill revise certain existing provisions to apply before the operative date of the *Valuation Manual*, as specified. Section 41 ~~[of this bill]~~ makes changes regarding the confidentiality of documents and information which constitute a memorandum in support of an actuarial opinion submitted by an insurer ~~[as part of a rate filing.]~~ to the Commissioner

pursuant to NRS 681B.230, including materials provided by the insurer to the Commissioner in connection with the memorandum. Sections 43-230 of this bill adopt the provisions of the National Association of Insurance Commissioners' Investments of Insurers Model Act (Defined Limits Version). Sections 233 and 318 of this bill make changes to the requirements for insurance administrators and self-insured employers for workers' compensation when filing their annual financial statements. Sections 234-238 of this bill make various changes to the licensing requirements for producers of insurance. Sections 241-253 of this bill adopt certain provisions of the National Association of Insurance Commissioners' Life and Health Insurance Guaranty Association Model Act. Sections 254 and 256 of this bill add coverage for assumed claims transactions to the Nevada ~~[Life and Health]~~ Insurance Guaranty Association. ~~[Sections]~~ Section 258 ~~[and 259]~~ of this bill ~~[make]~~ makes changes to certain provisions relating to the cash values of policies of life insurance. Sections 263 and 317 of this bill allow insurers to provide electronic proof of insurance certificates for motor vehicles. Sections 265-289 of this bill adopt the provisions of the National Association of Insurance Commissioners' Risk Management and Own Risk and Solvency Assessment Model Act. Sections 290-303 of this bill adopt various amendments to the National Association of Insurance Commissioners' Insurance Holding Company System Regulatory Act. Sections 307-311 of this bill make changes regarding state-chartered risk retention groups. Sections 312 and 313 of this bill authorize the Division of Insurance of the Department of Business and Industry to inspect certain sealed records to determine the suitability of an applicant for a license or the discipline of a licensee for misconduct. Section 319 of this bill repeals various provisions of existing law which are replaced by various sections of this bill.

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

Section 1. NRS 680B.050 is hereby amended to read as follows:

680B.050 1. Except as otherwise provided in this section, a domestic or foreign insurer, including, without limitation, an insurer that is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29), which owns and substantially occupies and uses any building in this state as its home office or as a regional home office is entitled to the following credits against the tax otherwise imposed by NRS 680B.027:

(a) An amount equal to 50 percent of the aggregate amount of the tax as determined under NRS 680B.025 to 680B.039, inclusive; and

(b) An amount equal to the full amount of ad valorem taxes paid by the insurer during the calendar year next preceding the filing of the report required by NRS 680B.030, upon the home office or regional home office together with the land, as reasonably required for the convenient use of the office, upon which the home office or regional home office is situated.

➥ These credits must not reduce the amount of tax payable to less than 20 percent of the tax otherwise payable by the insurer under NRS 680B.027.

2. As used in this section, a "regional home office" means an office of the insurer performing for an area covering two or more states, with a minimum of 25 employees on its office staff, the supervision, underwriting, issuing and servicing of the insurance business of the insurer.

3. The insurer shall, on or before March 15 of each year, furnish proof to the satisfaction of the Executive Director of the Department of Taxation, on forms furnished by or acceptable to the Executive Director, as to its entitlement to the tax reduction provided for in this section. A determination of the Executive Director of the Department of Taxation pursuant to this section is not binding upon the Commissioner for the purposes of ~~[NRS 682A.240.]~~ *sections 174 to 177, inclusive, of this act.*

4. An insurer is not entitled to the credits provided in this section unless:

(a) The insurer owned the property upon which the reduction is based for the entire year for which the reduction is claimed; and

(b) The insurer occupied at least 70 percent of the usable space in the building to transact insurance or the insurer is a general or limited partner and occupies 100 percent of its ownership interest in the building.

5. If two or more insurers under common ownership or management and control jointly own in equal interest, and jointly occupy and use such a home office or regional home office in this state for the conduct and administration of their respective insurance businesses as provided in this section, each of the insurers is entitled to the credits provided for by this section if otherwise qualified therefor under this section.

6. For the purposes of subsection 1, any insurer that is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29) and is restricted or prohibited from purchasing or owning real property pursuant to a contract with the Federal Government, including any entity thereof, shall be deemed to own any portion of any real property that the insurer occupies. The provisions of this subsection expire upon the expiration, cancellation, repayment or any other termination of the contract restricting or prohibiting such purchase or ownership.

Sec. 2. NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

(a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;

(b) If an annual fee, paid on or before March 1 of every year;

(c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and

(d) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:

(1) Initial fee $1,300

(2) Annual fee $1,300

(b) Associations of self-insured public employers, as defined in NRS 616A.055:

(1) Initial fee $1,300

(2) Annual fee $1,300

(c) Independent review organizations, as provided for in NRS 616A.469 or 683A.3715, or both:

(1) Initial fee $60

(2) Annual fee $60

(d) Insurers not otherwise provided for in this subsection:

(1) Initial fee $1,300

(2) Annual fee $1,300

(e) Producers of insurance, as defined in NRS 679A.117:

(1) Initial fee $60

(2) Triennial fee $60

(f) ~~[Accredited reinsurers]~~ ~~[,]~~ ~~*[or certified reinsurers,]*~~ *Reinsurers,* as provided for in NRS 681A.160 ~~[.]~~ *or section 5 of this act, as applicable:*

(1) Initial fee $1,300

(2) Annual fee $1,300

(g) Intermediaries, as defined in NRS 681A.330:

(1) Initial fee $60

(2) Triennial fee $60

(h) Reinsurers, as defined in NRS 681A.370:

(1) Initial fee $1,300

(2) Annual fee $1,300

(i) Administrators, as defined in NRS 683A.025:

(1) Initial fee $60

(2) Triennial fee $60

(j) Managing general agents, as defined in NRS 683A.060:

(1) Initial fee $60

(2) Triennial fee $60

(k) Agents who perform utilization reviews, as defined in NRS 683A.376:

(1) Initial fee $60

(2) Annual fee $60

(l) Insurance consultants, as defined in NRS 683C.010:

(1) Initial fee $60

(2) Triennial fee $60

(m) Independent adjusters, as defined in NRS 684A.030:

(1) Initial fee $60

(2) Triennial fee $60

(n) Public adjusters, as defined in NRS 684A.030:

(1) Initial fee $60

(2) Triennial fee $60

(o) Associate adjusters, as defined in NRS 684A.030:

(1) Initial fee $60

(2) Triennial fee $60

(p) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:

(1) Initial fee $60

(2) Triennial fee $60

(q) Brokers, as defined in NRS 685A.031:

(1) Initial fee $60

(2) Triennial fee $60

(r) ~~[Eligible surplus line insurers, as provided for in NRS 685A.070:~~

~~(1) Initial fee ..... $1,300~~

~~(2) Annual fee ..... $1,300~~

~~(s)]~~ Companies, as defined in NRS 686A.330:

(1) Initial fee $1,300

(2) Annual fee $1,300

~~[(t)]~~ *(s)* Rate service organizations, as defined in NRS 686B.020:

(1) Initial fee $1,300

(2) Annual fee $1,300

~~[(u)]~~ *(t)* Brokers of viatical settlements, as defined in NRS 688C.030:

(1) Initial fee $60

(2) Annual fee $60

~~[(v)]~~ *(u)* Providers of viatical settlements, as defined in NRS 688C.080:

(1) Initial fee $60

(2) Annual fee $60

~~[(w)]~~ *(v)* Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:

(1) Initial fee $60

(2) Triennial fee $60

~~[(x)]~~ *(w)* Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:

(1) Initial fee $60

(2) Triennial fee $60

~~[(y)]~~ *(x)* Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:

(1) Initial fee $60

(2) Triennial fee $60

~~[(z)]~~ *(y)* Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:

(1) Initial fee $60

(2) Triennial fee $60

~~[(aa)]~~ *(z)* Providers, as defined in NRS 690C.070:

(1) Initial fee $1,300

(2) Annual fee $1,300

~~[(bb)]~~ *(aa)* Escrow officers, as defined in NRS 692A.028:

(1) Initial fee $60

(2) Triennial fee $60

~~[(cc)]~~ *(bb)* Title agents, as defined in NRS 692A.060:

(1) Initial fee $60

(2) Triennial fee $60

~~[(dd)]~~ *(cc)* Captive insurers, as defined in NRS 694C.060:

(1) Initial fee $250

(2) Annual fee $250

~~[(ee)]~~ *(dd)* Fraternal benefit societies, as defined in NRS 695A.010:

(1) Initial fee $1,300

(2) Annual fee $1,300

~~[(ff)]~~ *(ee)* Insurance agents for societies, as provided for in NRS 695A.330:

(1) Initial fee $60

(2) Triennial fee $60

~~[(gg)]~~ *(ff)* Corporations subject to the provisions of chapter 695B of NRS:

(1) Initial fee $1,300

(2) Annual fee $1,300

~~[(hh)]~~ *(gg)* Health maintenance organizations, as defined in NRS 695C.030:

(1) Initial fee $1,300

(2) Annual fee $1,300

~~[(ii)]~~ *(hh)* Organizations for dental care, as defined in NRS 695D.060:

(1) Initial fee $1,300

(2) Annual fee $1,300

~~[(jj)]~~ *(ii)* Purchasing groups, as defined in NRS 695E.100:

(1) Initial fee $250

(2) Annual fee $250

~~[(kk)]~~ *(jj)* Risk retention groups, as defined in NRS 695E.110:

(1) Initial fee $250

(2) Annual fee $250

~~[(ll)]~~ *(kk)* Prepaid limited health service organizations, as defined in NRS 695F.050:

(1) Initial fee $1,300

(2) Annual fee $1,300

~~[(mm)]~~ *(ll)* Medical discount plans, as defined in NRS 695H.050:

(1) Initial fee $1,300

(2) Annual fee $1,300

~~[(nn)]~~ *(mm)* Club agents, as defined in NRS 696A.040:

(1) Initial fee $60

(2) Triennial fee $60

~~[(oo)]~~ *(nn)* Motor clubs, as defined in NRS 696A.050:

(1) Initial fee $1,300

(2) Annual fee $1,300

~~[(pp)]~~ *(oo)* Bail agents, as defined in NRS 697.040:

(1) Initial fee $60

(2) Triennial fee $60

~~[(qq)]~~ *(pp)* Bail enforcement agents, as defined in NRS 697.055:

(1) Initial fee $60

(2) Triennial fee $60

~~[(rr)]~~ *(qq)* Bail solicitors, as defined in NRS 697.060:

(1) Initial fee $60

(2) Triennial fee $60

~~[(ss)]~~ *(rr)* General agents, as defined in NRS 697.070:

(1) Initial fee $60

(2) Triennial fee $60

~~[(tt)]~~ *(ss)* Exchange enrollment facilitators, as defined in NRS 695J.050:

(1) Initial fee $60

(2) Triennial fee $60

Sec. 3. Chapter 681A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 12, inclusive, of this act.

Sec. 4. *Credit must be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the Commissioner as a reinsurer in this State and secures its obligations in accordance with the requirements of this chapter.*

Sec. 5. *To be eligible for certification, an assuming insurer must:*

1. Be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the Commissioner pursuant to section 7 of this act;

2. Maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the Commissioner;

3. Maintain financial strength ratings from two or more rating agencies deemed acceptable by the Commissioner;

4. Agree to submit to the jurisdiction of this State, appoint the Commissioner as its agent for service of process in this State and agree to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by ceding insurers in the United States for use if the assuming insurer resists enforcement of a final judgment rendered by any court of competent jurisdiction in the United States;

5. Agree to meet applicable information filing requirements as determined by the Commissioner, both with respect to an initial application for certification and on an ongoing basis; and

6. Satisfy any other requirements for certification deemed relevant by the Commissioner.

Sec. 6. *An association that includes incorporated and individual unincorporated underwriters may be a certified reinsurer. In addition to satisfying the requirements of section 5 of this act, to be eligible for certification:*

1. The association must satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and its members, which must include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the Commissioner to provide adequate protection;

2. The incorporated members of the association must not engage in any business other than underwriting as a member of the association and are subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

3. Within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, the association must provide to the Commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member or, if a certification is unavailable, financial statements prepared by independent public accountants of each underwriter member.

Sec. 7. *1. The Commissioner shall create and publish a list of qualified jurisdictions, pursuant to which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the Commissioner as a certified reinsurer.*

2. In order to determine whether the domiciliary jurisdiction of an alien assuming insurer is eligible to be recognized as a qualified jurisdiction, the Commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and extent of reciprocal recognition afforded by the alien jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction must agree to share information and cooperate with the Commissioner with respect to all

certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the Commissioner has determined that the jurisdiction does not adequately and promptly enforce final judgments rendered by a court of competent jurisdiction in the United States. Additional factors may be considered at the discretion of the Commissioner.

3. The Commissioner may consider the list of qualified jurisdictions maintained by the National Association of Insurance Commissioners in determining qualified jurisdictions.

4. Any jurisdictions that meet the requirements for accreditation pursuant to the National Association of Insurance Commissioners' financial standards and accreditation program must be recognized as qualified jurisdictions.

5. If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the Commissioner may suspend or revoke the reinsurer's certification.

Sec. 7.5. The Commissioner shall:

1. Assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings which have been assigned to certified reinsurers by rating agencies that the Commissioner deems acceptable pursuant to regulations adopted by the Commissioner; and

2. Publish a list of all certified reinsurers and the ratings that he or she has assigned to those certified reinsurers.

Sec. 8. *1. For a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the Commissioner and consistent with the provisions of NRS 681A.240 or, in a multi-beneficiary trust, pursuant to NRS 681A.180 and 681A.190, except as otherwise provided in sections 4 to 10, inclusive, of this act.*

2. If a certified reinsurer maintains a trust to fully secure its obligations subject to NRS 681A.180 and 681A.190, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multi-beneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this section or comparable laws of other jurisdictions in the United States and for its obligations subject to NRS 681A.180 and 681A.190. It is a condition of the grant of certification pursuant to sections 4 to 10, inclusive, of this act that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the commissioner of insurance of the state with principal regulatory authority over each trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account.

3. The minimum trusteed surplus requirements provided in NRS 681A.180 and 681A.190 are not applicable with respect to a multi-beneficiary trust maintained by a certified reinsurer for the purpose of

securing obligations incurred pursuant to sections 4 to 10, inclusive, of this act, except that the trust shall maintain a minimum trusteed surplus of $10,000,000.

4. With respect to obligations incurred by a certified reinsurer pursuant to sections 4 to 10, inclusive, of this act, if the security is insufficient, the Commissioner shall reduce the allowable credit by an amount proportionate to the deficiency and may impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

5. For the purposes of sections 4 to 10, inclusive, of this act, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100 percent of its obligations.

6. If the Commissioner continues to assign a higher rating as permitted by other provisions of NRS 681A.150 to 681A.190, inclusive, and sections 4 to ~~[12,]~~ 10, inclusive, of this act, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

7. A certified reinsurer shall secure obligations assumed from ceding insurers in the United States under this section at a level consistent with the rating of the certified reinsurer, as specified in regulations adopted by the Commissioner.

8. As used in this section, "terminated" means the revocation, suspension, voluntary surrender or inactive status of a reinsurer's certification.

Sec. 9. *If an applicant for certification has been certified as a reinsurer in a National Association of Insurance Commissioners accredited jurisdiction, the Commissioner has the discretion to defer to that jurisdiction's certification, and has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be certified in this State.*

Sec. 10. *A certified reinsurer that ceases to assume new business in this State may request to maintain its certification in inactive status to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer must continue to comply with all applicable requirements of NRS 681A.150 to 681A.190, inclusive, and sections 4 to 10, inclusive, of this act, and the Commissioner shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.*

Sec. 11. *Credit must be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of NRS 681A.150 to 681A.190, inclusive, and sections 4 to 10, inclusive, of this act, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.*

Sec. 12. *1. A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding*

insurer shall notify the Commissioner within 30 days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds 50 percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate that the exposure is safely managed by the domestic ceding insurer.

2. A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the Commissioner within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20 percent of the ceding insurer's gross written premium in the preceding calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate that the exposure is safely managed by the domestic ceding insurer.

Sec. 13. NRS 681A.130 is hereby amended to read as follows:

681A.130 The Commissioner may adopt regulations to carry out the provisions of NRS 681A.110 to 681A.560, inclusive ~~[.]~~ *, and sections 4 to 12, inclusive, of this act.*

Sec. 14. NRS 681A.140 is hereby amended to read as follows:

681A.140 As used in NRS 681A.140 to 681A.240, inclusive, *and sections 4 to 12, inclusive, of this act,* "qualified financial institution in the United States" means an institution that:

1. Is organized, or in the case of a branch or agency of a foreign banking organization in the United States licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers;

2. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies;

3. Is determined:

(a) By the Commissioner to meet the standards of financial condition and standing prescribed by the Commissioner; or

(b) By the National Association of Insurance Commissioners to meet the standards of financial condition and standing prescribed by the National Association of Insurance Commissioners; and

4. Is determined by the Commissioner to be otherwise acceptable.

Sec. 15. NRS 681A.150 is hereby amended to read as follows:

681A.150 No credit may be taken as an asset or as a deduction from liability on account of reinsurance unless the reinsurer is authorized to transact insurance or reinsurance in this state or the requirements of NRS 681A.160 ~~[, 681A.170, 681A.180 or]~~ *to* 681A.190, *inclusive, and sections 4 to* ~~*[11,]*~~ *10, inclusive, of this act,* and in any of these cases the requirements of NRS 681A.200 and 681A.210 also are met.

Sec. 16. NRS 681A.160 is hereby amended to read as follows:

681A.160 1. Except as otherwise provided in subsection 2, credit must be allowed if reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which ~~[:]~~ *satisfies all of the following conditions:*

(a) Files with the Commissioner ~~[an]~~ *a properly* executed ~~[form approved by the Commissioner]~~ *Form AR-1, provided on the Internet website of the Division,* as evidence of its submission to this state's jurisdiction. ~~[;]~~

(b) Submits to this state's authority to examine its books and records. ~~[;]~~

(c) Files with the Commissioner a certified copy of a certificate of authority or other evidence approved by the Commissioner indicating that it is licensed to transact insurance or reinsurance in at least one state, or in the case of a branch in the United States of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state. ~~[;]~~

(d) Files annually with the Commissioner a copy of its annual statement filed with the Division of its state of domicile or entry and a copy of its most recent audited financial statement. ~~[;]~~

(e) ~~[Maintains]~~ *Demonstrates to the satisfaction of the Commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of its application if it maintains* a surplus as regards policyholders in an amount which is:

(1) Not less than $20,000,000 and whose accreditation has not been denied by the Commissioner within 90 days after its submission; or

(2) Less than $20,000,000 and whose accreditation has been approved by the Commissioner. ~~[; and]~~

(f) Pays all applicable fees, including, without limitation, all applicable fees required pursuant to NRS 680C.110.

2. ~~[No credit may be allowed for a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Commissioner after notice and a hearing.]~~ *If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the Commissioner may suspend or revoke the reinsurer's accreditation or certification. Before suspending or revoking the reinsurer's accreditation or certification, the Commissioner must give the reinsurer notice and opportunity for a hearing.*

3. The suspension or revocation of an accreditation or certification may not take effect until after the Commissioner's order on hearing unless:

(a) The reinsurer waives its right to a hearing;

(b) The Commissioner's order is based upon regulatory action taken by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer; or

(c) The Commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the Commissioner's action.

4. During the period in which a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured pursuant to NRS 681A.240. If the reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured pursuant to NRS 681A.240.

Sec. 17. NRS 681A.170 is hereby amended to read as follows:

681A.170 1. Except as otherwise provided in subsection 2, credit must be allowed if reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or in the case of a branch in the United States of an alien assuming insurer is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this chapter and the assuming insurer or branch in the United States of an alien assuming insurer:

(a) Maintains a surplus as regards policyholders in an amount not less than $20,000,000; ~~[and]~~

(b) Submits to the authority of this state to examine its books and records ~~[.]~~ *; and*

(c) Files with the Commissioner a properly executed Form AR-1, provided on the Internet website of the Division, as evidence of its submission to this State's jurisdiction.

2. The requirement of paragraph (a) of subsection 1 does not apply to reinsurance ceded and assumed pursuant to pooling among insurers affiliated with the same holding company.

Sec. 18. NRS 681A.180 is hereby amended to read as follows:

681A.180 1. Except as otherwise provided in subsection ~~[4,]~~ *5,* credit must be allowed if reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified financial institution in the United States for the payment of the valid claims of its policyholders and ceding insurers in the United States, their assigns and successors in interest. The assuming insurer shall:

(a) Report annually to the Commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners' form of annual statement by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund; and

(b) Submit to the authority of the Commissioner to examine its books and records.

2. In the case of a single assuming insurer ~~[, the]~~ *:*

(a) The trust must consist of an account in trust equal to the assuming insurer's liabilities attributable to business written in the United States and

the assuming insurer shall maintain a surplus in trust of not less than $20,000,000.

(b) Three years after the assuming insurer has permanently discontinued underwriting new business secured by the trust, the commissioner of insurance of the state with principal regulatory authority over the trust may, at any time, authorize a reduction in the required trustee surplus, but only after finding, based on the assessment of the risk, that the new required surplus level is adequate for the protection of ceding insurers, policyholders and claimants in the United States in light of a reasonably adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and must consider all material risk factors, including, as applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by ceding insurers domiciled in the United States and covered by the trust.

3. In the case of a group of incorporated and individual unincorporated underwriters:

(a) The trust must consist of an account in trust equal to the group's liabilities attributable to business written in the United States.

(b) The group shall:

(1) Maintain a surplus in trust of which $100,000,000 must be held jointly for the benefit of ceding insurers in the United States to any member of the group; and

(2) Make available to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

(c) The incorporated members of the group:

(1) Shall not engage in any business other than underwriting as a member of the group; and

(2) Must be subject to the same level of regulation and solvency control by the applicable regulatory agency of the state in which the group is domiciled as the individual unincorporated members of the group.

4. *Credit for reinsurance must not be granted unless the form of the trust and any amendments to the trust have been approved by the commissioner of insurance of the state in which the trust is domiciled or the commissioner of insurance of another state that, under the terms of the trust instrument, has accepted responsibility for regulatory authority over the trust. The form of the trust and any amendments to the trust must also be filed with each state in which the ceding insurer beneficiaries are domiciled or located. The trust instrument must provide that:*

(a) Contested claims become valid and enforceable from money held in the trust to the extent such claims remain unsatisfied within 30 days after the

entry of the final order of any court of competent jurisdiction in the United States;

(b) Legal title to the assets of the trust must be vested in the trustees for the benefit of the grantor's ceding insurers in the United States, their assigns and successors in interest;

(c) The trust is subject to examination as determined by the Commissioner;

(d) The trust must remain in effect for as long as the assuming insurers or any member or former member of a group of insurers has outstanding obligations due under the agreements for reinsurance subject to the trust; and

(e) Not later than February 28 of each year, the trustees of the trust shall report to the Commissioner in writing setting forth the balance of the trust and listing the trust's investments at the end of the preceding year and shall certify the date of termination of the trust or certify that the trust will not expire before the next following December 31.

5. If the assuming insurer does not meet the requirements of NRS 681A.110, 681A.160 or 681A.170, credit must not be allowed unless the assuming insurer has agreed to the following conditions set forth in the trust agreement:

(a) Notwithstanding any provision to the contrary in the trust instrument, if the trust fund consists of an amount that is less than the amount required pursuant to this section, or if the grantor of the trust fund is declared to be insolvent or placed into receivership, rehabilitation, liquidation or a similar proceeding in accordance with the laws of the grantor's state or country of domicile, the trustee of the trust fund must comply with an order of the commissioner of insurance or other appropriate person with regulatory authority over the trust fund in that state or country or a court of competent jurisdiction requiring the trustee to transfer to that commissioner or person all the assets of the trust fund;

(b) The assets of the trust fund must be distributed by and claims filed with and valued by the commissioner of insurance or other appropriate person with regulatory authority over the trust fund in accordance with the laws of the state in which the trust fund is domiciled that are applicable to the liquidation of domestic insurers in that state;

(c) If the commissioner of insurance or other appropriate person with regulatory authority over the trust fund determines that the assets of the trust fund or any portion of the trust fund are not required to satisfy any claim of any ceding insurer of the grantor of the trust fund in the United States, the assets must be returned by that commissioner or person to the trustee of the trust fund for distribution in accordance with the trust agreement; and

(d) The grantor of the trust must waive any right that:

(1) Is otherwise available to the grantor under the laws of the United States; and

(2) Is inconsistent with the provisions of this subsection.

Sec. 19. NRS 681A.210 is hereby amended to read as follows:

681A.210 1. Except as otherwise provided in subsection 2, if the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this State, the credit permitted by NRS 681A.170 or 681A.180 must not be allowed unless the assuming insurer agrees in the agreements for reinsurance:

(a) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the agreement, the assuming insurer, at the request of the ceding insurer, will submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal;

(b) To designate the Commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in an action, suit or proceeding instituted by or on behalf of the ceding company; and

(c) To comply with the conditions set forth in subsection ~~[4]~~ *5* of NRS 681A.180.

2. This section does not conflict with or override the obligation of the parties to an agreement for reinsurance to arbitrate their disputes if such an obligation is created in the agreement.

Sec. 20. NRS 681A.220 is hereby amended to read as follows:

681A.220 Credit must be allowed if reinsurance is ceded to an assuming insurer not meeting the requirements of NRS 681A.110 ~~[or]~~ *and* 681A.150 ~~[, 681A.160, 681A.170, 681A.180 or]~~ *to* 681A.190, *inclusive, and sections 4 to ~~[11,]~~ 10, inclusive, of this act,* but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

Sec. 21. NRS 681A.230 is hereby amended to read as follows:

681A.230 1. Credit must be allowed as an asset or as a deduction from liability to any ceding insurer for reinsurance lawfully ceded to an assuming insurer qualified therefor pursuant to NRS 681A.110 ~~[,]~~ *and* 681A.150 ~~[, 681A.160, 681A.170, 681A.180 or]~~ *to* 681A.190, *inclusive, and sections 4 to ~~[11,]~~ 10, inclusive, of this act,* but no such credit may be allowed unless the contract for reinsurance provides in substance that, in the event of the insolvency of the ceding insurer, the reinsurance is payable pursuant to a contract reinsured by the assuming insurer on the basis of reported claims allowed in any liquidation proceedings, subject to court approval, without diminution because of the insolvency of the ceding insurer. Except as otherwise provided in NRS 686C.223, those payments must be made directly to the ceding insurer or to its domiciliary liquidator unless:

(a) The contract of reinsurance or other written contract specifically designates another payee of the payments in the event of the insolvency of the ceding insurer; or

(b) The assuming insurer, with the consent of the persons directly insured, has assumed the obligations from the policies issued by the ceding insurer as

direct obligations of the assuming insurer, and in substitution for the obligations of the ceding insurer, to the payees under those policies.

2. The domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of any claim against the ceding insurer on any contract reinsured within a reasonable time after such a claim is filed in the liquidation proceeding. During the pendency of the claim, the assuming insurer may investigate the claim and, at its own expense, interpose in the proceeding in which the claim is to be adjudicated any defense that the assuming insurer deems available to the ceding insurer or its liquidator.

Sec. 22. Chapter 681B of NRS is hereby amended by adding thereto the provisions set forth as sections 23 to ~~[39,]~~ 39.5, inclusive, of this act.

Sec. 23. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 24 to 32, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 24. *"Accident and health insurance" means a contract that incorporates morbidity risk and provides protection against economic loss resulting from accident, sickness or medical conditions ~~[.]~~ , and as may further be specified in the Valuation Manual.*

Sec. 25. *"Applicable company" means an insurer that:*

1. Has written, issued or reinsured life insurance, accident and health insurance or deposit-type contracts in this State and has at least one such policy in force or on claim; or

2. Has written, issued or reinsured life insurance, accident and health insurance or deposit-type contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance or deposit-type contracts in this State.

Sec. 26. *"Appointed actuary" means a qualified actuary who is appointed in accordance with the Valuation Manual to prepare the actuarial opinion required by ~~[NRS 681B.200 to 681B.260, inclusive.]~~ section 33.5 of this act.*

Sec. 27. *"Confidential information" means any information which qualifies as confidential under section 33 of this act.*

Sec. 28. *"Deposit-type contract" means a contract that does not incorporate mortality ~~[risk, including annuity and pure endowment contracts.]~~ or morbidity risks, and as may further be specified in the Valuation Manual.*

Sec. 28.3. "Life insurance" means a contract that incorporates mortality risk, including, without limitation, an annuity and pure endowment contract, and as may further be specified in the Valuation Manual.

Sec. 28.5. "NAIC" means the National Association of Insurance Commissioners or its successor organization.

Sec. 28.7 "Operative date of the Valuation Manual" means the date determined pursuant to subsection 2 of section 33.7 of this act.

Sec. 29. *"Policyholder behavior" includes any action a policyholder, contract holder or any other person with the right to elect options, such as a certificate holder, may take pursuant to a policy or contract subject to this chapter, including, without limitation, lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization or benefit elections prescribed by the policy or contract. The term does not include events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.*

Sec. 30. *"Principle-based valuation" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and is required to comply with sections 34, 35 and 36 ~~[, inclusive,]~~ of this act ~~[.]~~ , and as may further be specified in the Valuation Manual.*

Sec. 30.5. "Qualified actuary" means a natural person who:

1. Is qualified to sign the applicable statement of actuarial opinion in accordance with the standards that are established by the American Academy of Actuaries, or its successor organization, to determine the qualification of an actuary to sign such a statement; and

2. Meets the applicable requirements set forth in the Valuation Manual.

Sec. 31. *"Tail risk" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.*

Sec. 32. *"Valuation Manual" means the Valuation Manual adopted by the National Association of Insurance Commissioners ~~[,]~~ on December 2, 2012, and as subsequently amended ~~[,]~~ by the NAIC.*

Sec. 33. *1. The following types of information shall qualify as confidential information:*

(a) A memorandum in support of an opinion submitted pursuant to NRS 681B.200 to ~~[681B.280,]~~ 681B.260, inclusive, or section 33.5 of this act and any other documents, materials and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such memorandum;

(b) All documents, materials and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in the course of an examination authorized by subsection 2 of NRS ~~[681B.230,]~~ 679B.230 or subsection 7 of section 33.7 of this act, provided that if an examination report or other material prepared in connection with an examination authorized by NRS 679B.230 to 679B.300, inclusive, is not held as private and confidential information in accordance with the provisions of NRS 679B.230 to 679B.300, inclusive, an adopted examination report created in accordance with the provisions of subsection 2 of NRS ~~[681B.230]~~ 679B.230 or subsection 7 of section 33.7 of this act shall not be deemed confidential information;

(c) Any reports, documents, materials and other information developed by an applicable company in support of, or in connection with, an annual certification by the applicable company in accordance with the provisions of paragraph (b) of subsection ~~[2]~~ 1 of section 35 of this act evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation, and any other documents, materials and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such reports, documents, materials and other information;

(d) Any principle-based valuation report developed in accordance with paragraph (c) of subsection ~~[3]~~ 1 of section 35 of this act, and any other documents, materials and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such report; and

(e) Any experience data and experience materials, and any other documents, materials, data and other information, including, without limitation, all working papers, and copies thereof, created, produced or obtained by or disclosed to the Commissioner or any other person in connection with such data and materials.

2. As used in this section:

(a) "Experience data" means all documents, materials, data and other information submitted by an applicable company to the Commissioner, a designated experience reporting agent or other such person authorized to act on behalf of the Commissioner pursuant to ~~[section 35]~~ sections 37 and 37.5 of this act.

(b) "Experience materials" means all documents, materials, data and other information, including, without limitation, all working papers, and copies thereof, created or produced in connection with experience data including, without limitation, any potentially company-identifying or personally identifiable information, that is provided to or obtained by the Commissioner ~~[,]~~ , a designated experience reporting agent or other such person authorized to act on behalf of the Commissioner pursuant to sections 37 and 37.5 of this act.

Sec. 33.3. 1. For policies and contracts issued on or after the operative date of the Valuation Manual:

(a) The Commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every applicable company doing business in this State.

(b) In lieu of the valuation of the reserves required of a foreign or alien applicable company, the Commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other

jurisdiction when the valuation complies with the minimum standard provided in sections 23 to 39.5, inclusive, of this act, and NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270, inclusive.

2. The provisions set forth in sections 33.7 to 36, inclusive, of this act apply to all policies and contracts issued on or after the operative date of the Valuation Manual.

3. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after the operative date of the Valuation Manual.

Sec. 33.5. 1. For actuarial opinions of reserves prepared after the operative date of the Valuation Manual:

(a) Every company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this State and subject to regulation by the Commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this State. The Valuation Manual will prescribe the specifics of this opinion including any items deemed to be necessary to its scope.

(b) Every applicable company with outstanding life insurance contracts, accident and health insurance contracts or deposit-type contracts in this State and subject to regulation by the Commissioner, except as exempted in the Valuation Manual, must also annually include in the opinion required by paragraph (a), an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the Valuation Manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including, but not limited to, the benefits under and expenses associated with the policies and contracts.

(c) Each opinion required by paragraphs (a) and (b) must be governed by the following provisions:

(1) A memorandum, in the form and substance as specified in the Valuation Manual, and acceptable to the Commissioner, must be prepared to support each actuarial opinion.

(2) If the insurance company fails to provide a supporting memorandum at the request of the Commissioner within a period specified in the Valuation Manual or the Commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the Valuation Manual or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company

to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the Commissioner.

(d) In addition to the requirements of paragraph (c), each opinion required by paragraphs (a) and (b) must be governed by the following provisions:

(1) The opinion must be in the form and substance as specified in the Valuation Manual and acceptable to the Commissioner.

(2) The opinion must be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after the operative date of the Valuation Manual.

(3) The opinion must apply to all policies and contracts subject to paragraph (b) plus other actuarial liabilities as may be specified in the Valuation Manual.

(4) The opinion must be based on standards adopted from time to time by the Actuarial Standards Board, or its successor organization, and on such additional standards as may be prescribed in the Valuation Manual.

(5) In the case of an opinion required to be submitted by a foreign or alien applicable company, the Commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this State.

(6) Except in cases of fraud or willful misconduct, the appointed actuary is not liable for damages to any person, other than the insurance company and the Commissioner, for any act, error, omission, decision or conduct with respect to the appointed actuary's opinion.

(7) Disciplinary action by the Commissioner against the company or the appointed actuary must be defined in regulations by the Commissioner.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 33.7. 1. For policies issued on or after the operative date of the Valuation Manual, the standard prescribed in the Valuation Manual is the minimum standard of valuation required under section 33.3 of this act, except as otherwise provided in subsection 6 or 8.

2. The operative date of the Valuation Manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

(a) The Valuation Manual has been adopted by the NAIC by an affirmative vote of at least 42 members, or three-fourths of the members voting, whichever is greater.

(b) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75 percent of the direct premiums written as reported in the following annual statements submitted for 2008:

(1) Life, accident and health annual statements;

(2) Health annual statements; or

(3) Fraternal annual statements.

(c) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of the following 55 jurisdictions:

(1) The 50 states of the United States;

(2) American Samoa;

(3) The American Virgin Islands;

(4) The District of Columbia;

(5) Guam; and

(6) Puerto Rico.

(d) The Valuation Manual is adopted in accordance with regulations adopted by the Commissioner.

3. Within 90 days after all the events described in paragraphs (a) to (d), inclusive, of subsection 2 have taken place, the Commissioner shall issue a bulletin to inform insurers and the public of that fact.

4. Unless a change in the Valuation Manual specifies a later effective date, changes to the Valuation Manual are effective on January 1 following the date when:

(a) The change to the Valuation Manual is adopted by the NAIC by an affirmative vote representing:

(1) At least three-fourths of the members of the NAIC voting, but not less than a majority of the total membership; and

(2) Members of the NAIC representing jurisdictions totaling greater than 75 percent of the direct premiums written as reported in the following annual statements most recently available before the vote in subparagraph (1):

(I) Life, accident and health annual statements;

(II) Health annual statements; or

(III) Fraternal annual statements.

5. The Valuation Manual must specify all of the following:

(a) Minimum valuation standards for and definitions of the policies or contracts subject to section 33.3 of this act, including:

(1) The Commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to section 33.3 of this act;

(2) The Commissioner's annuity reserve valuation method for annuity contracts subject to section 33.3 of this act; and

(3) Minimum reserves for all other policies or contracts subject to section 33.3 of this act;

(b) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation in section 34 of this act and the minimum valuation standards consistent with those requirements;

(c) For policies and contracts subject to a principle-based valuation under sections 34, 35 and 36 of this act:

(1) Requirements for the format of the reports provided to the Commissioner pursuant to paragraph (c) of subsection 1 of section 35 of this act and which must include information necessary to determine if the valuation is appropriate and in compliance with sections 23 to 39.5, inclusive, of this act, and NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270, inclusive;

(2) Assumptions must be prescribed for risks over which the company does not have significant control or influence; and

(3) Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures;

(d) For policies not subject to a principle-based valuation under sections 34, 35 and 36 of this act, the minimum valuation standard must:

(1) Be consistent with the minimum standard of valuation before the operative date of the Valuation Manual; or

(2) Develop reserves that quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions which include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts;

(e) Other requirements, including, but not limited to, those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules and internal controls; and

(f) The data and form of the data required pursuant to section 37 of this act, with whom the data must be submitted, and may specify other requirements including data analyses and reporting of such analyses.

6. In the absence of a specific valuation requirement or if a specific valuation requirement in the Valuation Manual is not, in the opinion of the Commissioner, in compliance with sections 23 to 39.5, inclusive, of this act, and NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270, inclusive, the company must, with respect to such requirements, comply with minimum valuation standards prescribed by the Commissioner by regulation.

7. The Commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in sections 23 to 39.5, inclusive, of this act, and NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270, inclusive. The Commissioner may rely upon the opinion, regarding provisions contained within sections 23 to 39.5, inclusive, of this act, and NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270, inclusive, of a qualified

actuary engaged by the Commissioner of another state, district or territory of the United States. As used in this subsection, "engage" includes employment and contracting.

8. The Commissioner may require a company to change any assumption or method that, in the opinion of the Commissioner, is necessary in order to comply with the requirements of the Valuation Manual or sections 23 to 39.5, inclusive, of this act, and NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270, inclusive, and the company shall adjust the reserves as required by the Commissioner. The Commissioner may take other disciplinary action as allowed pursuant to regulations adopted by the Commissioner.

9. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after the operative date of the Valuation Manual.

Sec. 33.9. 1. For accident and health insurance policies and contracts issued on or after the operative date of the Valuation Manual, the standard prescribed in the Valuation Manual is the minimum standard of valuation required under section 33.3 of this act.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after the operative date of the Valuation Manual.

Sec. 34. *1. An applicable company using a principle-based valuation must establish reserves ~~[using a principle-based valuation]~~ that:*

~~*[1. Quantifies]*~~

(a) Quantify the benefits and guarantees, and the funding, associated with the contracts and their risks at a level of conservatism that reflects conditions which include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, the valuation must reflect conditions appropriately adverse to quantify the tail risk.

~~*[2. Incorporates]*~~

(b) Incorporate assumptions, risk analysis methods and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.

~~*[3. Incorporates]*~~

(c) Incorporate assumptions that are:

~~[(a)]~~ (1) Prescribed in the Valuation Manual; or

~~[(b)]~~ (2) Established utilizing the company's available experience, to the extent that it is relevant and statistically credible or established utilizing other relevant, statistically credible experience.

~~*[4. Provides]*~~

(d) Provide margins for uncertainty, including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 35. *1. An applicable company using a principle-based valuation for one or more policies or contracts subject to this chapter, and as specified in the Valuation Manual, shall:*

~~[1.]~~ (a) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the Valuation Manual.

~~[2.]~~ (b) Provide to the Commissioner, and the company's board of directors, an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. Such controls must be designed to ensure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made pursuant to the Valuation Manual. The certification must be based on the controls in place as of the end of the preceding calendar year.

~~[3.]~~ (c) Develop and, upon request, provide to the Commissioner a principle-based valuation report that complies with the standards prescribed in the Valuation Manual.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 36. *1. A principle-based valuation may include a prescribed formulaic reserve component.*

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after the operative date of the Valuation Manual.

Sec. 37. *1. An applicable company shall submit to the Commissioner , to an appropriately appointed experience reporting agent or to such other person authorized to act on behalf of the Commissioner pursuant to section 37.5 of this act, and as specified in the Valuation Manual, mortality, morbidity, policyholder behavior or expense experience and other data as prescribed in the Valuation Manual.*

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 37.5. 1. The Commissioner may designate a person to act as the experience reporting agent of the Commissioner and to assist the Commissioner in compiling relevant mortality, morbidity, policyholder behavior or expense experience and other data pursuant to section 37 of this act and as prescribed in the Valuation Manual.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 38. *1. Except as otherwise provided in this section and NRS 239.0115 and sections 33 and 39 of this act, an applicable company's confidential information is confidential by law and privileged, and is not:*

(a) Subject to subpoena or other forms of civil discovery; or

(b) Admissible in evidence in any private civil action.

2. Neither the Commissioner nor any person who received confidential information while acting under the authority of the Commissioner may be permitted or required to testify in any private civil action concerning the confidential information.

3. To assist in the performance of the Commissioner's duties, the Commissioner may share confidential information with other state, federal and international regulatory agencies and the ~~[National Association of Insurance Commissioners,]~~ NAIC, provided that the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such confidential information in the same manner and to the same extent as required of the Commissioner.

4. To assist in the performance of the Commissioner's duties, the Commissioner may share confidential information specified in paragraphs (a) and (d) of subsection 1 of section 33 of this act with state, federal and international law enforcement officials or the Actuarial Board for Counseling and Discipline, or its successor, if the confidential information is provided for the purpose of professional disciplinary hearings and the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of such confidential information in the same manner and to the same extent as required of the Commissioner.

5. The Commissioner may receive documents, materials, data and other information, including, without limitation, confidential information and privileged documents, materials, data or other information from the ~~[National Association of Insurance Commissioners,]~~ NAIC, and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions and from the Actuarial Board for Counseling and Discipline, or its successor, and shall maintain as confidential or privileged any document, material, data or other information received with notice, or the understanding, that the information is confidential or privileged under the laws of the jurisdiction which is the source of the document, material, data or other information.

6. The Commissioner may enter into agreements governing the sharing and use of confidential information consistent with this section.

7. No waiver of any applicable privilege or claim of confidentiality in confidential information shall occur as a result of the disclosure of the confidential information to the Commissioner pursuant to this section or as a result of sharing as authorized in ~~[subsection]~~ subsections 3 ~~[.]~~ and 4.

8. A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this section may be available and enforced in any proceeding in, and in any court of, this State.

9. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 39. *1. Notwithstanding any provisions of section 38 of this act to the contrary, any confidential information specified in subsections 1 and ~~[4]~~ 5 of section 38 of this act:*

~~[1.]~~ (a) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted in accordance with the provisions of NRS 681B.200 to 681B.260, inclusive, or a principle-based valuation report developed in accordance with paragraph (c) of subsection ~~[3]~~ 1 of section 35 of this act by reason of an action required by sections 33 to ~~[39,]~~ 39.5, inclusive, of this act ~~[.~~

~~2.]~~ or any regulations adopted pursuant thereto;

(b) May otherwise be released by the Commissioner with the written consent of the applicable company; and

~~[3.]~~ (c) Is no longer confidential if any portion of a memorandum in support of an opinion submitted in accordance with the provisions of NRS 681B.200 to 681B.260, inclusive, or a principle-based valuation report developed in accordance with paragraph (c) of subsection ~~[3]~~ 1 of section 35 of this act, is:

~~[(a)]~~ (1) Cited by the applicable company in its marketing;

~~[(b)]~~ (2) Publicly volunteered to or before a government agency other than the Division or an insurance department of another state; or

~~[(c)]~~ (3) Released by the applicable company to the news media.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 39.5. 1. The Commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in this State from the requirements of section 33.7 of this act, if:

(a) The Commissioner has issued to the company a written exemption and has not subsequently revoked that written exemption; and

(b) The company computes reserves using assumptions and methods that were used before the operative date of the Valuation Manual, in addition to complying with any applicable requirements established in regulations adopted by the Commissioner.

2. If a company is granted an exemption as described in subsection 1, the provisions of NRS 681B.110 to 681B.150, inclusive, and 681B.200 to 681B.270, inclusive, apply to that company.

3. The provisions of this section apply only on or after the operative date of the Valuation Manual.

Sec. 40. NRS 681B.020 is hereby amended to read as follows:

681B.020 1. In addition to assets impliedly excluded by the provisions of NRS 681B.010, the following expressly may not be allowed as assets in any determination of the financial condition of an insurer:

(a) Goodwill, trade names and other like intangible assets.

(b) Advances to officers, other than policy loans, whether secured or not, and advances to employees, agents and other persons on personal security only.

(c) Stock of such insurer, owned by it, or any equity therein or loans secured thereby, or any proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation or business unit.

(d) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature and supplies, other than data processing, recordkeeping and accounting systems authorized under subsection 13 of NRS 681B.010, except ~~[:~~

~~(1) In the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under NRS 682A.220; and~~

~~(2) In the case of any insurer,~~] such personal property as the insurer is permitted to hold pursuant to chapter 682A of NRS, or which is reasonably necessary for the maintenance and operation of real property lawfully acquired and held by the insurer other than real property used by it for home office, branch office and similar purposes.

(e) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this Code.

2. If any successor organization to the State Industrial Insurance System that was established by section 79 of chapter 642, Statutes of Nevada 1981, at page 1449, wishes to transact in this state property or casualty insurance other than industrial insurance, the money required to be held in trust by that organization pursuant to NRS 616B.042 may not be allowed as assets of the successor organization in determining its financial condition to transact such insurance.

Sec. 40.15. NRS 681B.110 is hereby amended to read as follows:

681B.110 1. The Commissioner shall, in the manner provided by NRS 681B.110 to 681B.150, inclusive, annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this state, *issued on or after January 1, 1972, and before the operative date of the Valuation Manual,* except that in the case of an alien insurer, the valuation must be limited to its United States business.

2. ~~[The Commissioner may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods used in the calculation of the reserves.~~

~~3.~~] The Commissioner may:

(a) Use any method, including group methods and the net level premium method, in the calculation of the reserves.

(b) Use approximate averages for fractions of a year or other period to calculate the reserves.

(c) In lieu of the valuation of the reserves required of any foreign or alien company, accept any valuation made, or caused to be made, by an insurance supervisory officer of any other state or jurisdiction if the valuation by the insurance supervisory officer complies with the minimum standard required by NRS 681B.110 to 681B.150, inclusive. ~~[, and if the insurance officer of the other state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the Commissioner when the certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.~~

~~4. Any such insurer which at any time has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in NRS 681B.110 to 681B.150, inclusive, may, with the approval of the Commissioner, adopt any lower standard of valuation, but not lower than the minimum provided in those sections.]~~

3. The provisions set forth in NRS 681B.110 to 681B.150, inclusive, and 681B.270 apply to all policies and contracts, as appropriate, issued on or after January 1, 1972, and before the operative date of the Valuation Manual. The provisions set forth in sections 33.7 to 36, inclusive, of this act do not apply to any such policies and contracts.

4. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

5. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.2. NRS 681B.120 is hereby amended to read as follows:

681B.120 1. Except as otherwise provided in subsection 3 and in NRS 681B.125, the minimum standards for the valuation of all policies and contracts issued before January 1, 1972, are as follows:

(a) The legal minimum standard for valuation of contracts issued before January 1, 1942, is a basis not lower than that used for the annual statement of the year during which the policies were issued, and for contracts issued on and after January 1, 1942, is the American Experience Table of Mortality with either Craig's or Buttolph's Extension for ages under 10, with interest at not more than 3.5 percent per annum. Annuities and pure endowments purchased under group annuity and pure endowment contracts must be valued in the same manner, with interest at not more than 5 percent. Such policies may provide for not more than 1-year preliminary term insurance by

incorporating therein a clause plainly showing that the first year's insurance under the contract is term insurance purchased by the whole or part of the premiums to be received during the first year of the contract.

(b) The legal minimum standard for the valuation of group life insurance policies under which the premium rates are not guaranteed for more than 5 years is the American Men Ultimate Table of Mortality with interest at not more than 3.5 percent per annum.

(c) The legal minimum standard for the valuation of industrial policies is the American Experience Table of Mortality or the Standard Industrial Mortality Table or the Substandard Industrial Mortality Table with interest at not more than 3.5 percent per annum by the net level premium method, or in accordance with their terms by the modified preliminary term method described in this section.

(d) Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves than the minimum reserves required by this subsection.

2. Except as otherwise provided in subsection 3 and in NRS 681B.125, the minimum standards for the valuation of all policies and contracts issued on or after January 1, 1972, are the Commissioners reserve valuation methods defined in NRS 681B.130 and 681B.150, 5 percent interest for group annuity and pure endowment contracts and 3.5 percent interest for all other such policies and contracts or, in the case of policies and contracts other than annuity and pure endowment contracts issued on or after July 1, 1973, 4 percent interest for such policies issued before July 1, 1977, 5.5 percent interest for single premium life insurance policies and 4.5 percent for all other such policies issued on and after July 1, 1977, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the Commissioners 1941 Standard Ordinary Mortality Table until the operative date of NRS 688A.340, and, for all such policies issued on and after the operative date of NRS 688A.340 and before the operative date of NRS 688A.325, the Commissioners 1958 Standard Ordinary Mortality Table, except that for any category of such policies issued on female risks all modified net premiums and present values referred to in NRS 681B.110 to 681B.150, inclusive, may be calculated according to an age not more than 6 years younger than the actual age of the insured. For policies issued on or after the operative date of NRS 688A.325:

(1) The Commissioners 1980 Standard Ordinary Mortality Table;

(2) At the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; or

(3) Any ordinary mortality table which is adopted after 1980 by the ~~[National Association of Insurance Commissioners]~~ *NAIC* and is approved by a regulation adopted by the Commissioner,

➥ may be used in determining the minimum standard of valuation for such policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table for such policies issued before the operative date of NRS 688A.330, and for such policies issued on or after that date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table which is adopted after 1980 by the ~~[National Association of Insurance Commissioners]~~ *NAIC* and is approved by a regulation adopted by the Commissioner for use in determining the minimum standard of valuation for such policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the 1937 Standard Annuity Mortality Table, or, at the option of the insurer, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the Commissioner.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the Group Annuity Mortality Table for 1951, any modification of that table approved by the Commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates which are adopted after 1980 by the ~~[National Association of Insurance Commissioners]~~ *NAIC* and are approved by a regulation adopted by the Commissioner for use in determining the minimum standard of valuation for such policies; and for policies or contracts issued on or after January 1, 1961, and before January 1, 1966, either such tables or, at the option of the insurer, the Class (3) Disability Table (1926).

(f) Benefits for accidental death in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table, or any accidental death benefits table which is adopted after 1980 by the ~~[National Association of Insurance Commissioners]~~ *NAIC* and is approved by a regulation adopted by the Commissioner for use in determining the minimum standard of valuation for such policies; and for policies issued on or after January 1, 1961, and before January 1, 1966, either such table or, at the option of the insurer, the Inter-Company Double Indemnity Mortality Table. Either table must be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, for life insurance issued on the substandard basis and for special benefits, such tables as may be approved by the Commissioner.

3. Except as provided in NRS 681B.125, the minimum standards for the valuation of all individual annuity and pure endowment contracts issued on or after the valuation operative date defined in subsection 4 and for all annuities and pure endowments purchased on or after that date, under group annuity and pure endowment contracts, are the Commissioners reserve valuation methods defined in NRS 681B.130 and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued before July 1, 1977, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any modification of the table approved by the Commissioner, and 6 percent interest for single premium immediate annuity contracts, and 4 percent interest for all other individual annuity and pure endowment contracts.

(b) For individual single premium immediate annuity contracts issued on or after July 1, 1977, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table, or any individual annuity mortality table which is adopted after 1980 by the ~~[National Association of Insurance Commissioners]~~ *NAIC* and is approved by a regulation adopted by the Commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of those tables approved by the Commissioner, and 7.5 percent interest.

(c) For individual annuity and pure endowment contracts issued on or after July 1, 1977, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table which is adopted after 1980 by the ~~[National Association of Insurance Commissioners]~~ *NAIC* and is approved by a regulation adopted by the Commissioner for use in determining the minimum standard of valuation for such contracts, or any modification of those tables approved by the Commissioner, and 5.5 percent interest for single premium deferred annuity and pure endowment contracts and 4.5 percent interest for all other such individual annuity and pure endowment contracts.

(d) For all annuities and pure endowments purchased before July 1, 1977, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any modification of that table approved by the Commissioner, and 6 percent interest.

(e) For all annuities and pure endowments purchased on or after July 1, 1977, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 Group Annuity Mortality Table, or any group annuity mortality table which is adopted after 1980 by the ~~[National Association of Insurance~~

~~Commissioners]~~ *NAIC* and is approved by a regulation adopted by the Commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of those tables approved by the Commissioner, and 7.5 percent interest.

4. After July 1, 1973, any insurer may file with the Commissioner a written notice of its election to comply with the provisions of subsection 3 after a specified date before January 1, 1979, which then becomes the valuation operative date for the insurer, but an insurer may elect a different valuation operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the valuation operative date for the insurer is January 1, 1979.

5. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued before the operative date of the Valuation Manual.

Sec. 40.25. NRS 681B.125 is hereby amended to read as follows:

681B.125 1. This section sets forth the interest rates used in determining the minimum standard for valuation of:

(a) All life insurance policies issued in a particular calendar year on or after the operative date of NRS 688A.325;

(b) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1984;

(c) All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1984, under group annuity and pure endowment contracts; and

(d) The net increase, if any, in a particular calendar year after January 1, 1984, in amounts held under contract which have guaranteed interest.

2. The interest rates for valuation must be determined as follows, and the results rounded to the nearer one-quarter of 1 percent:

(a) For life insurance:

$$I = .03 + W (R_1 - .03) + W/2 (R_2 - .09)$$

(b) For single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with options for cash settlement and from contracts which have guaranteed interest with options for cash settlement:

$$I = .03 + W (R - .03)$$

where

R_1 is the lesser of R and .09,
R_2 is the greater of R and .09,
R is the reference interest rate defined in this section, and
W is the weighting factor defined in this section.

(c) For other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement, valued on the basis of the year issued, except as stated in paragraph (b), the formula for

life insurance set forth in paragraph (a) applies to annuities and contracts which have guaranteed interest with a guaranteed duration in excess of 10 years, and the formula for single-premium immediate annuities stated in paragraph (b) applies to annuities and contracts which have guaranteed interest with guaranteed durations of 10 years or less.

(d) For other annuities with no options for cash settlement and for contracts which have guaranteed interest with no options for cash settlement, the formula for single-premium immediate annuities set forth in paragraph (b) applies.

(e) For other annuities with options for cash settlement and contracts which have guaranteed interest with no options for cash settlement which are valued on the basis of a change in its fund the formula for single-premium immediate annuities stated in paragraph (b) applies.

(f) If the interest rate for valuation for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of 1 percent, the interest rate for the valuation of such life insurance policies is equal to the corresponding actual rate for the immediately preceding calendar year. The interest rate for the valuation of life insurance policies issued in a calendar year must be determined for 1980 using the reference interest rate defined for 1979 and must be determined for each subsequent calendar year regardless of when NRS 688A.325 becomes operative with respect to the insurer.

3. The weighting factors referred to in the formulas set forth in subsection 2 are given in the following tables:

(a) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10 but not more than 20	.45
More than 20	.35

For life insurance, the duration of the guarantee is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values, or both, which are guaranteed in the original policy;

(b) The weighting factor for single-premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement is .80; and

(c) Weighting factors for other annuities and for contracts which have guaranteed interest except as stated in paragraph (b), are specified in the tables in subparagraphs (1), (2) and (3), according to the rules and definitions in subparagraphs (4), (5) and (6) as follows:

(1) For annuities and contracts which have guaranteed interest valued on the basis of the year issued:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less	.80	.60	.50
More than 5, but not more than 10	.75	.60	.50
More than 10, but not more than 20	.65	.50	.45
More than 2	.45	.35	.35

(2) For annuities and contracts which have guaranteed interest valued on a change in fund basis, the factors shown in subparagraph (1):

	Weighting Factor for Plan Type		
	A	B	C
Increased by	.15	.25	.05

(3) For annuities and contracts which have guaranteed interest valued on the basis of the year issued, (other than those with no options for cash settlement) which do not guarantee interest on considerations received more than 1 year after issue or purchase and for annuities and contracts which have guaranteed interest valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in subparagraph (1) or derived in subparagraph (2) increased by .05.

(4) For other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement, the guaranteed duration is the number of years for which the contract guarantees interest rates in excess of the interest rate for the valuation of life insurance policies with a guaranteed duration in excess of 20 years. For other annuities with no options for cash settlement and for contracts which have guaranteed interest with no options for cash settlement, the guaranteed duration is the number of years from the date of issue or date of purchase to the date on which the annuity benefits are scheduled to commence.

(5) The types of plans listed in this subsection have the following characteristics:

Plan Type A

Under this plan the policyholder:

(I) May withdraw money only with an adjustment to reflect changes in interest rates or the value of assets since the insurer's receipt of the money, or without such an adjustment but in installments payable over 5 years or more;

(II) May withdraw money as an immediate life annuity; or

(III) Is not permitted to withdraw money.

Plan Type B

Under this plan, before expiration of the guaranteed interest rate, the policyholder:

(I) May withdraw money only with an adjustment to reflect changes in interest rates or the value of assets since the insurer's receipt of the money, or without such an adjustment but in installments payable over 5 years or more; or

(II) Is not permitted to withdraw money.

➥ At the end of the guaranteed interest rate, the policyholder may withdraw money without such an adjustment in a single sum or in installments over a period of less than 5 years.

Plan Type C

Under this plan the policyholder may withdraw money before expiration of the guaranteed interest rate in a single sum or in installments over a period of less than 5 years:

(I) Without any adjustment to reflect changes in interest rates or the value of assets since the insurer's receipt of the money; or

(II) Subject only to a fixed charge for surrender which is stipulated in the contract as a percentage of the fund.

(6) An insurer may elect to value contracts which have guaranteed interest with options for cash settlement and annuities with options for cash settlement on the basis of the year issued or a change in fund basis. Contracts which have guaranteed interest but no options for cash settlement and annuities with no options for cash settlement must be valued on the basis of the year issued. As used in this section, "valuation on the basis of the year issued" means a basis of valuation under which the interest rate used to determine the minimum standard of valuation for the entire duration of an annuity or contract with guaranteed interest is the interest rate of valuation for the year of issue or the year of purchase of the annuity or contract, and "change in fund basis of valuation" means a basis of valuation under which the interest rate used to determine the minimum standard of valuation applicable to each change in the fund held under the annuity or contract is the interest rate for valuation for the year of the change in the fund.

4. For purposes of subsection 2, "reference interest rate" means:

(a) For all life insurance, the lesser of the average over 36 months and the average over 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(b) For single-premium immediate annuities, annuity benefits involving life contingencies arising from other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement, the average over 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield

Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(c) For other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement, valued on the basis of the year issued, except as stated in paragraph (b), with a guaranteed duration of more than 10 years, the lesser of the average over 36 months and the average over 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(d) For other annuities with options for cash settlement and guaranteed interest with options for cash settlement, valued on the basis of the year issued, except as stated in paragraph (b), with a guaranteed duration of 10 years or less, the average over 12 months, ending on June 30 of the calendar year issued or purchased, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(e) For other annuities with no options for cash settlement and for contracts which have guaranteed interest with no option for cash settlement, the average over 12 months, ending on June 30 of the calendar year issued or purchased, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(f) For other annuities with options for cash settlement and contracts which have guaranteed interest with options for cash settlement valued on a change in fund basis, except as stated in paragraph (b), the average over 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average—Monthly Average Corporates, as published by Moody's Investors Service, Inc.

5. If the publication of Moody's Corporate Bond Yield Average—Monthly Average Corporates by Moody's Investors Service, Inc., ends or the National Association of Insurance Commissioners determines that Moody's Corporate Bond Yield Average—Monthly Average Corporates is no longer appropriate for determination of the reference interest rate, an alternative method for determination of the reference interest rate which is adopted by the ~~[National Association of Insurance Commissioners]~~ *NAIC* and approved by regulation of the Commissioner may be substituted.

6. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

7. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.3. NRS 681B.130 is hereby amended to read as follows:

681B.130 1. Except as otherwise provided in subsection 4 and in NRS 681B.150, reserves, according to the Commissioners' reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums must be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by the policies over the then present value of any future modified net premiums therefor. The modified net premiums for the policy must be such a uniform percentage of the respective contract premiums for those benefits that the present value, at the date of issue of the policy, of all the modified net premiums are equal to the sum of the then present value of the benefits provided for by the policy and the excess of the premium set forth in paragraph (a) over that set forth in paragraph (b), as follows:

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due. The net level annual premium must not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age 1 year higher than the age at the time the policy is issued.

(b) A net 1-year term premium for such benefits provided for in the first policy year.

2. If any life insurance policy issued on or after January 1, 1987, for which the contract premium in the first policy year exceeds that of the second year, and for which no comparable additional benefit is provided in the first year in return for the excess premium and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, the reserve according to the Commissioners' reserve valuation method as of any policy anniversary occurring on or before the assumed ending date, which is the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium, must, except as otherwise provided in NRS 681B.150, be the greater of:

(a) The reserve as of the policy anniversary calculated as described in subsection 1; and

(b) The reserve as of the policy anniversary calculated as described in subsection 1, but with:

(1) The value defined in paragraph (a) of subsection 1 being reduced by 15 percent of the amount of the excess first-year premium;

(2) All present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date;

(3) The policy being assumed to mature on such date as an endowment; and

(4) The cash surrender value provided on that date being considered as an endowment benefit. In making the above comparison, the mortality and interest bases stated in NRS 681B.120 and 681B.125 must be used.

3. Reserves according to the Commissioners' reserve valuation method for:

(a) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums;

(b) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship), by an employee organization or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as amended;

(c) Disability and accidental death benefits in all policies and contracts; and

(d) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts,

➥ must be calculated by a method consistent with the principles of subsection 1 and this subsection, except that any extra premiums charged because of impairments or special hazards must be disregarded in the determination of modified net premiums.

4. This subsection applies to all annuity and pure endowment contracts except those group annuity and pure endowment contracts for which reserves according to the Commissioners' reserve valuation method are to be calculated by a method consistent with the principles of subsections 1, 2 and 3. Reserves according to the Commissioners' annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in those contracts must be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by those contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of the contract, which become payable before the end of such respective contract year. The future guaranteed benefits must be determined by using the mortality table, if any, and the interest rate or rates specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

5. An insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after January 1, 1972, must not be less than the aggregate reserves calculated in accordance with the methods set forth in this section, NRS 681B.145 and

681B.150, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for those policies.

6. An insurer's aggregate reserves for all policies, contracts and benefits must not be less than the aggregate reserves determined by a qualified actuary to be necessary for a favorable opinion under NRS 681B.210 and 681B.220.

7. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

8. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.35. NRS 681B.140 is hereby amended to read as follows:

681B.140 1. Reserves for any category of policies, contracts or benefits as established by the Commissioner, issued on or after January 1, 1972, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for the category than those calculated according to the minimum standards provided by subsections 2 and 3 of NRS 681B.120 and 681B.125, but the rate or rates of interest used for policies and contracts other than the annuity and pure endowment contracts must not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for in such policies.

2. Any insurer which has adopted a standard of valuation producing greater aggregate reserves as described in subsection 1 may, with the approval of the Commissioner, adopt a lower standard of valuation, but not lower than the minimum described in subsection 1.

3. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

4. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.4. NRS 681B.145 is hereby amended to read as follows:

681B.145 *1.* For any plan of life insurance which provides for the determination of a future premium, the amounts of which are to be determined by the insurer based on estimates of future experience, or for any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in NRS 681B.130 and 681B.150, the reserves which are held under the plan must be:

~~[1.]~~ *(a)* Appropriate in relation to the benefits and the pattern of premiums for the plan; and

~~[2.]~~ *(b)* Computed by a method which is consistent with the principles of standard valuation contained in this chapter.

2. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

3. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.43. NRS 681B.150 is hereby amended to read as follows:

681B.150 *1.* If in any contract year the gross premium charged by any life insurer on any policy or contract issued on or after January 1, 1972, is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract is the greater of:

~~[1.]~~ *(a)* The reserve calculated according to the mortality table, rate of interest and method actually used for the policy or contract; or

~~[2.]~~ *(b)* The reserve calculated by the method actually used for the policy or contract, but using the minimum valuation standards of mortality and rate of interest, and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this ~~[section]~~ *subsection* are the standards stated in NRS 681B.120 and 681B.125.

~~[3.]~~ *2.* If any life insurance policy is issued on or after January 1, 1987, for which the gross premium in the first policy year exceeds that of the second year and no comparable additional benefit is provided in the first year in return for the excess premium, and which provides an endowment benefit or a cash surrender value, or a combination thereof, in an amount greater than the excess premium, the provisions of this section must be applied as if the method actually used in calculating the reserve for the policy were the method described in NRS 681B.130 other than in subsection 2 of that section. The minimum reserve required at each policy anniversary of such a policy is the greater of the minimum reserve calculated in accordance with NRS 681B.130, including subsection 2 of that section, and the minimum reserve calculated in accordance with this ~~[section.]~~ *subsection and subsection 1.*

3. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

4. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only to, or in connection with, policies and contracts issued on or after January 1, 1972, and before the operative date of the Valuation Manual.

Sec. 40.45. NRS 681B.160 is hereby amended to read as follows:

681B.160 1. Except as otherwise provided in subsection 5, all bonds or other evidences of debt having a fixed term and rate of interest held by an insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

(a) If purchased at par, at the par value.

(b) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made or, in lieu of that method, according to an accepted method of valuation that is approved by the Commissioner.

2. The purchase price must not be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

3. Unless otherwise provided by a valuation established or approved by the Commissioner, the security must not be carried at above the call price for the entire issue during any period within which the security may be so called.

4. The Commissioner has full discretion in determining the method of calculating values pursuant to this section.

5. A valuation determined pursuant to this section must not be inconsistent with any applicable valuation or method then currently formulated or approved by the ~~[National Association of Insurance Commissioners or its successor organization.]~~ *NAIC.*

Sec. 40.47. NRS 681B.170 is hereby amended to read as follows:

681B.170 1. Except as otherwise provided in subsection 4, securities, other than those specified in NRS 681B.160, held by an insurer must be valued, in the discretion of the Commissioner, at their market value, or at their appraised value, or at prices determined by the Commissioner as representing their fair market value.

2. Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the Commissioner and in accordance with a method of computation approved by the Commissioner.

3. The stock of a subsidiary of an insurer must be valued on the basis of the value of only those assets of the subsidiary as would constitute lawful investments of the insurer if acquired or held directly by the insurer.

4. A valuation determined pursuant to this section must not be inconsistent with any applicable valuation or method then currently formulated or approved by the ~~[National Association of Insurance Commissioners or its successor organization.]~~ *NAIC.*

Sec. 40.5. NRS 681B.200 is hereby amended to read as follows:

681B.200 *1.* As used in NRS 681B.200 to 681B.260, inclusive, "qualified actuary" means a *natural* person who is qualified to sign the applicable statement of actuarial opinion in accordance with the qualification standards set by the American Academy of Actuaries for an actuary signing such a statement.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 40.55. NRS 681B.210 is hereby amended to read as follows:

681B.210 *1.* Every insurer doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The Commissioner by regulation may further define or enlarge the scope of this opinion.

2. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 40.6. NRS 681B.220 is hereby amended to read as follows:

681B.220 1. Every such insurer, unless exempted by or pursuant to regulation, shall also annually submit an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the Commissioner by regulation, when considered in light of the assets held by the insurer with respect to the reserves and related actuarial items, including the earnings on the assets invested and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the insurer's obligations under the policies and contracts, including the benefits under and expenses associated with the policies and contracts.

2. The Commissioner may provide by regulation for a period of transition for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section and NRS 681B.210.

3. The holding of additional reserves determined by a qualified actuary to be necessary to render the opinion required by this section or NRS 681B.210, shall not be deemed to be the adoption of a higher standard of valuation for the purposes of NRS 681B.120 or 681B.140.

4. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 40.65. NRS 681B.230 is hereby amended to read as follows:

681B.230 1. Each opinion required by NRS 681B.220 must be supported by memorandum, in form and substance acceptable to the Commissioner as specified by regulation.

2. If an insurer fails to provide a supporting memorandum at the request of the Commissioner within a period specified by regulation, or the Commissioner determines that the supporting memorandum provided by the insurer fails to meet the standards prescribed by the regulations or is otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the insurer to review the opinion and the

basis for the opinion and prepare such supporting memorandum as is required by the Commissioner.

3. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 40.7. NRS 681B.240 is hereby amended to read as follows:

681B.240 1. Every opinion must:

(a) Be submitted with the annual statement reflecting the valuation of reserve liabilities for each year ending on or after December 31, 1996.

(b) Apply to all business in force including, without limitation, individual and group health insurance plans, in form and substance acceptable to the Commissioner as specified by regulation.

(c) Be based on standards adopted from time to time by the Actuarial Standards Board or a successor organization approved by the Commissioner and on such additional standards as the Commissioner may by regulation prescribe.

2. In the case of an opinion required to be submitted by a foreign or alien company, the Commissioner may accept the opinion filed by that company with the commissioner of insurance of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to an insurer domiciled in this state.

3. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 40.75. NRS 681B.250 is hereby amended to read as follows:

681B.250 1. Except in a case of fraud or willful misconduct, a qualified actuary who is appointed by an insurer to issue an opinion pursuant to this chapter or any regulation adopted pursuant thereto is not liable for damages to any person other than an affected insurer or the Commissioner for any act, error, omission, decision or conduct with respect to the actuary's opinion.

2. Disciplinary action by the Commissioner against an actuary must be prescribed by regulation by the Commissioner.

3. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 41. NRS 681B.260 is hereby amended to read as follows:

681B.260 1. Except as otherwise provided in this section and NRS 239.0115, *and sections 33, 38 and 39 of this act,* ~~[an opinion,]~~ *any documents* and ~~[any]~~ other material *or information* provided by an insurer to the Commissioner *, which constitute a memorandum in support of an opinion, and any other material provided to the Commissioner* in connection ~~[therewith,]~~ *with such a memorandum,* must be kept confidential by the Commissioner, is not open to the public, and is not subject to subpoena, except for the purpose of defending an action seeking damages from any person by reason of any action required by NRS 681B.200 to 681B.260, inclusive, or by *any* regulation adopted under those sections.

2. A memorandum or other material may be released by the Commissioner with the written consent of the insurer or to the American Academy of Actuaries or its successor organization upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the Commissioner for preserving the confidentiality of the memorandum or other material.

3. If any portion of a confidential memorandum is cited by the insurer in its marketing or is cited before any governmental agency other than a state commissioner of insurance or is released by an insurer to the public, all portions of the memorandum are no longer confidential.

4. The Commissioner may use the documents, materials and other information described in this section in the furtherance of any regulatory or legal action brought as part of the Commissioner's official duties.

5. Neither the Commissioner nor any other person in receipt of documents, materials or other information obtained while acting under the authority of the Commissioner may be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to this section.

6. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or other information described in this section shall occur as a result of disclosure to the Commissioner pursuant to this section or as a result of sharing as authorized in subsection 8 of NRS 679B.190.

7. A memorandum in support of an opinion, and any other material provided by the applicable company or insurer to the Commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section.

8. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 41.3. NRS 681B.270 is hereby amended to read as follows:

681B.270 ~~[The Commissioner shall adopt by regulation minimum standards for the valuation of reserves of other insurers offering]~~

1. For health insurance *contracts* of any kind ~~[,]~~ *issued on or after January 1, 1972, and before the operative date of the Valuation Manual, by health insurers,* corporations for hospital, medical and dental service, health maintenance organizations and plans for dental care ~~[.]~~ *, the minimum standard of valuation is the standard adopted by the Commissioner by regulation.*

2. The minimum standard for the valuation of policies and contracts issued before January 1, 1972, must be that provided by the laws in effect immediately preceding that date.

3. Except as otherwise provided in section 39.5 of this act, the provisions of this section apply only before the operative date of the Valuation Manual.

Sec. 41.7. NRS 681B.290 is hereby amended to read as follows:

681B.290 1. Except as otherwise provided in subsection 3, on or before March 1 of each year, each domestic insurer, and each foreign insurer domiciled in a state which does not have requirements for reporting risk-based capital, that transacts property, casualty, life or health insurance in this state shall prepare and submit to the Commissioner, and to each person designated by the Commissioner, a report of the level of the risk-based capital of the insurer as of the end of the immediately preceding calendar year. The report must be in such form and contain such information as required by the regulations adopted by the Commissioner pursuant to this section.

2. The Commissioner shall adopt regulations concerning the amount of risk-based capital required to be maintained by each insurer licensed to do business in this state that is transacting property, casualty, life or health insurance in this state. The regulations must be consistent with the instructions for reporting risk-based capital adopted by the ~~[National Association of Insurance Commissioners,]~~ *NAIC,* as those instructions existed on January 1, 1997. If the instructions are amended, the Commissioner may amend the regulations to maintain consistency with the instructions if the Commissioner determines that the amended instructions are appropriate for use in this state.

3. The Commissioner may exempt from the provisions of this section:

(a) A domestic insurer who:

(1) Does not transact insurance in any other state;

(2) Does not assume reinsurance that is more than 5 percent of the direct premiums written by the insurer; and

(3) Writes annual premiums of not more than $2,000,000.

(b) A prepaid limited health service organization that provides or arranges for the provision of limited health services to fewer than 1,000 enrollees.

4. As used in this section, "prepaid limited health service organization" has the meaning ascribed to it in NRS 695F.050.

Sec. 42. Chapter 682A of NRS is hereby amended by adding thereto the provisions set forth as sections 43 to ~~[222,]~~ 230, inclusive, of this act.

Sec. 43. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 44 to 130, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 44. *"Acceptable collateral" means:*

1. As to securities lending transactions, and for the purpose of calculating counterparty exposure amount, cash, cash equivalents, letters of credit, direct obligations of, or securities that are fully guaranteed as to principal and interest by, the Federal Government or any agency thereof, or by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and, as to lending foreign securities, sovereign debt rated 1 by the SVO;

2. As to repurchase transactions, cash, cash equivalents and direct obligations of, or securities that are fully guaranteed as to principal and

interest by, the Federal Government or any agency thereof, or by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

3. As to reverse repurchase transactions, cash and cash equivalents.

Sec. 45. *"Acceptable private mortgage insurance" means insurance written by a private insurer protecting a mortgage lender against loss occasioned by a mortgage loan default and issued by a licensed mortgage insurance company with a rating of 1 by the SVO, or a rating issued by a nationally recognized statistical rating organization equivalent to a rating of 1 by the SVO, that covers losses up to an 80 percent loan-to-value ratio.*

Sec. 46. *"Accident and health insurance" means protection which provides payment of benefits for covered sickness or accidental injury. The term does not include credit insurance, disability insurance, accidental death and dismemberment insurance and long-term care insurance.*

Sec. 47. *"Accident and health insurer" means a licensed life or health insurer or health services corporation whose insurance premiums and required statutory reserves for accident and health insurance constitute at least 95 percent of the total premium considerations or total statutory required reserves, respectively.*

Sec. 48. *"Admitted asset" means an asset permitted to be reported as an admitted asset on the statutory financial statement of the insurer most recently required to be filed with the Commissioner. The term does not include assets of separate accounts, the investments of which are not subject to the provisions of this chapter.*

Sec. 49. *"Affiliate" means, as to any person, another person that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the person.*

Sec. 50. *"Asset-backed security" means a security or other instrument, excluding a mutual fund, evidencing an interest in, or the right to receive payments from, or payable from distributions on, an asset, a pool of assets or specifically divisible cash flows which are legally transferred to a trust, or another special purpose bankruptcy-remote business entity, which meets the conditions set forth in section 131 of this act.*

Sec. 51. *"Business entity" includes, without limitation, a sole proprietorship, corporation, limited-liability company, association, partnership, joint-stock company, joint venture, mutual fund, trust, joint tenancy or other similar form of business organization, whether organized for-profit or not-for-profit.*

Sec. 52. *"Cap" means an agreement obligating the seller to make payments to the buyer, with each payment based on the amount by which a reference price or level, or the performance or value of one or more underlying interests, exceeds a predetermined number, sometimes referred to as the strike rate or strike price.*

Sec. 53. *"Capital and surplus" means the sum of the capital and surplus of the insurer which is required to be shown on the statutory financial*

statement of the insurer most recently required to be filed with the Commissioner.

Sec. 54. *"Cash equivalents" means short-term, highly rated and highly liquid investments or securities that are readily convertible to known amounts of cash without penalty and so near maturity that they present insignificant risk of change in value. The term includes, without limitation, government money market mutual funds and class one money market mutual funds. As used in this section:*

1. "Highly rated" means an investment rated:

(a) "P-1" by Moody's Investor Service, Inc., or its successor organization;

(b) "A-1" by Standard and Poor's division of The McGraw Hill Companies, Inc., or its successor organization; or

(c) An equivalent rating by a nationally recognized statistical rating organization recognized by the SVO.

2. "Short-term" means investments with a remaining term to maturity of 90 days or less.

Sec. 55. *"Class one bond mutual fund" means a mutual fund that at all times qualifies for investment using the bond class one reserve factor contained in the Purposes and Procedures Manual of the SVO.*

Sec. 56. *"Class one money market mutual fund" means a money market mutual fund that at all times qualifies for investment using the bond class one reserve factor under the Purposes and Procedures Manual of the SVO.*

Sec. 57. *"Collar" means an agreement to receive payments as the buyer of an option, cap or floor and to make payments as the seller of a different option, cap or floor.*

Sec. 58. *"Commercial mortgage loan" means any mortgage loan other than a residential mortgage loan.*

Sec. 59. *"Construction loan" means a loan of less than 3 years in term, made for financing the costs of construction of a building or other improvement to real estate and that is secured by the real estate.*

Sec. 60. *"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through ownership of voting securities, by contract, other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.*

Sec. 61. *"Counterparty exposure amount" means the amount calculated pursuant to section 133 of this act.*

Sec. 62. *"Covered" means that an insurer owns or can immediately acquire, through the exercise of options, warrants or conversion rights already owned, the underlying interest to fulfill or secure its obligations under a call option, cap or floor it has written, or has set aside in accordance with a custodial or escrow agreement, cash or cash equivalents with a market value equal to the amount required to fulfill its obligations in*

accordance with a put option it has written, in an income generation transaction.

Sec. 63. *"Credit tenant loan" means a mortgage loan which is made primarily in reliance on the credit standing of a major tenant, structured with an assignment of the rental payments to the lender with real estate pledged as collateral in the form of a first position lien.*

Sec. 64. *1. "Derivative instrument" means an agreement, option or instrument, or a series or combination thereof:*

(a) To make or take delivery of, or assume or relinquish, a specified amount of one or more underlying interests, or to make a cash settlement in lieu thereof; or

(b) That has a price, performance, value or cash flow based primarily upon the actual or expected price, level, performance, value or cash flow of one or more underlying interests.

2. The term includes, without limitation, options, warrants used in a hedging transaction and not attached to another financial instrument, caps, floors, collars, swaps, forwards, futures and any other agreements, options or instruments substantially similar thereto, or any series or combination thereof, and any agreements, options or instruments allowed pursuant to the regulations adopted under section 158 of this act.

3. The term does not include an investment authorized by sections 163 to 183, inclusive, 189, and 203 to 223, inclusive, of this act.

Sec. 65. *"Derivative transaction" means a transaction involving the use of one or more derivative instruments.*

Sec. 66. *"Direct" or "directly," when used in connection with an obligation, means that the designated obligor is primarily liable on the instrument representing the obligation.*

Sec. 67. *"Dollar roll transaction" means two simultaneous transactions with different settlement dates, not more than 96 days apart, such that in the transaction with the earlier settlement date, an insurer sells to a business entity, and in the other transaction the insurer is obligated to purchase from the same business entity substantially similar securities of the following types:*

1. Asset-backed securities issued, assumed or guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, or their respective successors; and

2. Other asset-backed securities referred to in section 106 of title 1 of the Secondary Mortgage Market Enhancement Act of 1984, 15 U.S.C. § 77r-1, as amended.

Sec. 68. *"Domestic jurisdiction" means the United States, Canada, any state of the United States, any province of Canada or any political subdivision of any of the foregoing.*

Sec. 69. *"Equity interest" means any of the following that are not rated credit instruments:*

1. Common stock;

2. Preferred stock;

3. A trust certificate;

4. An equity investment in an investment company, other than a money market mutual fund or a class one bond mutual fund;

5. An investment in a common trust fund of a bank regulated by a federal or state agency;

6. An ownership interest in minerals, oil or gas, the rights to which have been separated from the underlying fee interest in the real estate where the minerals, oil or gas are located;

7. Instruments which are mandatorily, or at the option of the issuer, convertible to equity;

8. Limited partnership interests and those general partnership interests authorized pursuant to paragraph (d) of subsection 1 of section 154 of this act;

9. Member interests in a limited-liability company;

10. Warrants or other rights to acquire equity interests that are created by the person that owns or would issue the equity to be acquired; and

11. Instruments that would be rated credit instruments.

Sec. 70. *"Equivalent securities" means any securities which meet the qualifications of section 134 of this act.*

Sec. 71. *"Floor" means an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor rate or price, exceeds a reference price, level, performance or value of one or more underlying interests.*

Sec. 72. *"Foreign currency" means a currency other than that of a domestic jurisdiction.*

Sec. 73. *"Foreign investment" means an investment in a foreign jurisdiction, or an investment in a person, real estate or asset domiciled in a foreign jurisdiction, that is substantially of the same type as those eligible for investment in accordance with this chapter, other than an investment made in accordance with sections 179 to 183, inclusive, and 219 to 223, inclusive, of this act.*

Sec. 74. *"Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.*

Sec. 75. *"Forward" means an agreement, other than a future, to make or take delivery of or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests.*

Sec. 76. *"Future" means an agreement, traded on a qualified exchange or qualified foreign exchange, to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests.*

Sec. 77. *"Government money market mutual fund" means a money market mutual fund that at all times:*

1. Invests only in obligations issued, guaranteed or insured by the Federal Government or collateralized repurchase agreements composed of these obligations; and

2. Qualifies for investment without a reserve in accordance with the Purposes and Procedures Manual of the SVO.

Sec. 78. *"Government-sponsored enterprise" means a:*

1. Governmental agency; or

2. Corporation, limited-liability company, association, partnership, joint stock company, joint venture, trust or other entity or instrumentality organized in accordance with the laws of any domestic jurisdiction to accomplish a public policy or other governmental purpose.

Sec. 79. *"Guaranteed or insured," when used in connection with an obligation acquired in accordance with the provisions of this chapter, means that the guarantor or insurer has agreed to:*

1. Perform or insure the obligation of the obligor or purchase the obligation; or

2. Be unconditionally obligated until the obligation is repaid to maintain in the obligor a minimum net worth, fixed charge coverage, stockholder's equity or sufficient liquidity to enable the obligor to pay the obligation in full.

Sec. 80. *"Hedging transaction" means a derivative transaction which is entered into and maintained to reduce:*

1. The risk of a change in the value, yield, price, cash flow or quantity of assets or liabilities which the insurer has acquired or incurred or anticipates acquiring or incurring; or

2. The currency exchange rate risk or the degree of exposure as to assets or liabilities which an insurer has acquired or incurred or anticipates acquiring or incurring.

Sec. 81. *"High grade investment" means a rated credit instrument rated 1 or 2 by the SVO.*

Sec. 82. *"Income" means, as to a security, interest, accrual of discount, dividends or other distributions, including, without limitation, rights, tax or assessment credits, warrants and distributions in kind.*

Sec. 83. *"Income generation transaction" means a derivative transaction involving the writing of covered call options, covered put options, covered caps or covered floors that is intended to generate income or enhance returns.*

Sec. 84. *"Insurance future" means a future relating to an index or pool that is based on insurance-related claims.*

Sec. 85. *"Insurance future option" means an option on an insurance future.*

Sec. 86. *"Investment company" has the meaning ascribed to it in 15 U.S.C. § 80a-3, as amended, and a person described in section 3(c) of that Act.*

Sec. 87. *"Investment company series" means an investment portfolio of an investment company that is organized as a series company and to which assets of the investment company have been specifically allocated.*

Sec. 88. *"Investment practices" means transactions of the types described in sections 178, 184 to 188, inclusive, 218 and 224 to 228, inclusive, of this act.*

Sec. 89. *"Investment strategy" means the techniques and methods used by an insurer to meet its investment objectives, including, without limitation, active bond portfolio management, passive bond portfolio management, interest rate anticipation, growth investing and value investing.*

Sec. 90. *"Investment subsidiary" means a subsidiary of an insurer engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer where the subsidiary limits its investment in any asset so that its investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations or avoid any other provisions of this chapter applicable to the insurer. As used in this section, "total investment of the insurer" includes:*

1. Direct investment by the insurer in an asset; and

2. The insurer's proportionate share of an investment in an asset by an investment subsidiary of the insurer, calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership interest in the subsidiary.

Sec. 91. *"Letter of credit" means a clean, irrevocable and unconditional document that serves as a guaranty for payments made to a specified person under specified conditions, issued or confirmed by, and payable and presentable at, a financial institution on the list of financial institutions meeting the standards for issuing letters of credit in accordance with the Purposes and Procedures Manual of the SVO.*

Sec. 92. *"Limited-liability company" means a business organization, excluding partnerships and ordinary business corporations, that is organized or operating in accordance with the laws of the United States, or any state thereof, and that limits the personal liability of investors to the equity investment of the investor in the business organization.*

Sec. 93. *"Lower grade investment" means a rated credit instrument that is rated 4, 5 or 6 by the SVO.*

Sec. 94. *"Market value" means:*

1. As to cash and letters of credit, the face amounts thereof; and

2. As to a security as of any date, the price for the security on that date obtained from a generally recognized source or the most recent quotation from such a source or, to the extent no generally recognized source exists, the price for the security as determined in good faith by the parties to a transaction, plus accrued but unpaid income thereon to the extent not included in the price on that date.

Sec. 95. *"Medium grade investment" means a rated credit instrument that is rated 3 by the SVO.*

Sec. 96. *"Money market mutual fund" means a mutual fund that meets the conditions of 17 C.F.R. § 270.2a-7, adopted in accordance with the provisions of the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as amended.*

Sec. 97. *"Mortgage loan" means an obligation secured by a mortgage, deed of trust, trust deed or other consensual lien on real estate.*

Sec. 98. *"Multilateral development bank" means an international development organization of which the United States is a member.*

Sec. 99. *"Mutual fund" means an investment company or, in the case of an investment company that is organized as a series company, an investment company series, that, in either case, is registered with the United States Securities and Exchange Commission in accordance with the provisions of the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as amended.*

Sec. 100. *"NAIC" means the National Association of Insurance Commissioners, or its successor organization.*

Sec. 101. *"Obligation" means evidence of indebtedness for the payment of money or other consideration, whether constituting a general obligation of the issuer or payable only out of certain revenues or certain funds pledged or otherwise dedicated for payment. The term includes, without limitation, a bond, note, debenture, trust certificate, including an equipment certificate, production payment, negotiable bank certificate of deposit, banker's acceptance, credit tenant loan or loan secured by financing net leases.*

Sec. 102. *"Option" means an agreement giving the buyer the right to buy or receive, sell or deliver, enter into, extend or terminate, or effect a cash settlement based on the actual or expected price, level, performance or value of one or more underlying interests.*

Sec. 103. *"Over-the-counter derivative instrument" means a derivative instrument entered into with a business entity other than through a qualified exchange or qualified foreign exchange, or cleared through a qualified clearinghouse.*

Sec. 104. *"Person" means an individual, a business entity, a multilateral development bank or a government or quasi-governmental body, including, without limitation, a political subdivision or a government sponsored enterprise.*

Sec. 105. *"Potential exposure" means the amount determined in accordance with the Annual Statement Instructions for the type of insurer to be reported on as adopted by the NAIC.*

Sec. 106. *"Preferred stock" means the stock of a business entity authorized to issue the stock and that has a preference in liquidation over the common stock of the business entity.*

Sec. 107. *"Qualified bank" means:*

1. A national bank, state bank or trust company that at all times is not less than adequately capitalized as determined by the standards adopted by United States banking regulators and that is either regulated by state banking laws or is a member of the Federal Reserve System; or

2. A bank or trust company incorporated or organized in accordance with the laws of a country other than the United States that is regulated as a bank or trust company by that country's government, or an agency thereof, and that at all times is not less than adequately capitalized as determined by the standards adopted by international banking authorities.

Sec. 108. *"Qualified business entity" means a business entity that is:*

1. An issuer of obligations or preferred stock that is rated 1 or 2 by the SVO or an issuer of obligations, preferred stock or derivative instruments that are rated the equivalent of 1 or 2 by the SVO or by a nationally recognized statistical rating organization recognized by the SVO; or

2. A primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York.

Sec. 109. *"Qualified clearinghouse" means a clearinghouse for, and subject to the rules of, a qualified exchange or qualified foreign exchange, which provides clearing services, including acting as a counterparty to each of the parties to a transaction such that the parties no longer have credit risk as to each other.*

Sec. 110. *"Qualified exchange" means:*

1. A securities exchange registered as a national securities exchange or a securities market regulated in accordance with the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a et seq., as amended;

2. A board of trade or commodities exchange designated as a contract market by the United States Commodity Futures Trading Commission or any successor thereof;

3. Private Offerings, Resales and Trading through Automated Linkages, otherwise known as PORTAL;

4. A designated offshore securities market as defined in Securities Exchange Commission Regulation S, 17 C.F.R. Part 230, as amended; or

5. A qualified foreign exchange.

Sec. 111. *"Qualified foreign exchange" means a foreign exchange, board of trade or contract market located outside the United States, its territories or possessions:*

1. That has received regulatory comparability relief in accordance with Commodity Futures Trading Commission Rule 30.10, as set forth in 17 C.F.R. Part 30, Appendix C, as amended;

2. That is, or its members are, subject to the jurisdiction of a foreign futures authority that has received regulatory comparability relief in accordance with Commodity Futures Trading Commission Rule 30.10, as set forth in 17 C.F.R. Part 30, Appendix C, as amended, as to futures transactions in the jurisdiction where the exchange, board of trade or contract market is located; or

3. Upon which foreign stock index futures contracts are listed that are the subject of no-action relief issued by the Commodity Futures Trading Commission's Office of General Counsel, provided that an exchange, board of trade or contract market that qualifies as a qualified foreign exchange only in accordance with this section is a qualified foreign exchange as to foreign stock index futures contracts that are the subject of no-action relief.

Sec. 112. *1. "Rated credit instrument" means a contractual right to receive cash or another rated credit instrument from another entity which instrument:*

(a) Is rated or required to be rated by the SVO;

(b) In the case of an instrument with a maturity of 397 days or less, is issued, guaranteed or insured by an entity that is rated by, or another obligation of such entity is rated by, the SVO or by a nationally recognized statistical rating organization recognized by the SVO;

(c) In the case of an instrument with a maturity of 90 days or less, is issued by a qualified bank;

(d) Is a share of a class one bond mutual fund; or

(e) Is a share of a money market mutual fund.

2. The term does not include:

(a) An instrument that is mandatorily, or at the option of the issuer, convertible to an equity interest; or

(b) A security that has a par value and whose terms provide that the issuer's net obligation to repay all or part of the security's par value is determined by reference to the performance of an equity, a commodity, a foreign currency or an index of equities, commodities, foreign currencies, or any combination thereof.

Sec. 113. *1. "Real estate" means:*

(a) Real property;

(b) Interests in real property, including, without limitation, leaseholds, minerals and oil and gas that have not been separated from the underlying fee interest;

(c) Improvements and fixtures located on or in real property; and

(d) The seller's equity in a contract providing for a deed of real estate.

2. As to a mortgage on real estate, the term includes the leasehold estate only if it has an unexpired term, including, without limitation, renewal options exercisable at the option of the lessee, extending beyond the scheduled maturity date of the obligation that is secured by a mortgage on the leasehold estate for the greater of:

(a) A period equal to at least 20 percent of the original term of the obligation; or

(b) Ten years.

Sec. 114. *"Replication transaction" means a derivative transaction that is intended to replicate the performance of one or more assets which an insurer is authorized to acquire in accordance with the provisions of this*

chapter. The term does not include a derivative transaction that is entered into as a hedging transaction.

Sec. 115. *"Repurchase transaction" means a transaction in which an insurer purchases securities from a business entity that is obligated to repurchase the purchased securities, or equivalent securities, from the insurer at a specified price, either within a specified period of time or upon demand.*

Sec. 116. *"Required liabilities" means the total liabilities required to be reported on the statutory financial statement of the insurer most recently required to be filed with the Commissioner.*

Sec. 117. *"Residential mortgage loan" means a mortgage loan primarily secured by real estate which is improved with at least one but not more than four residential dwelling units.*

Sec. 118. *"Reverse repurchase transaction" means a transaction in which an insurer sells securities to a business entity and is obligated to repurchase the sold securities, or equivalent securities, from the business entity at a specified price, either within a specified period of time or on demand.*

Sec. 119. *"Secured location" means the contiguous real estate owned by one person.*

Sec. 120. *"Securities lending transaction" means a transaction in which securities are loaned by an insurer to a business entity that is obligated to return the loaned securities, or equivalent securities, to the insurer, either within a specified period of time or upon demand.*

Sec. 121. *"Series company" means an investment company that is organized as a series company, as defined in 17 C.F.R. § 270.18f-2.*

Sec. 122. *"Sinking fund stock" means preferred stock that:*

1. Is subject to a mandatory sinking fund or similar arrangement that will provide for the redemption or open market purchase of the entire issue over a period not greater than 40 years after the date of acquisition; and

2. Provides for mandatory sinking fund installments or open market purchases commencing not more than 10.5 years after the date of issue, with the sinking fund installments providing for the purchase or redemption, on a cumulative basis commencing 10 years after the date of issue, of at least 2.5 percent per year of the original number of shares of that issue of preferred stock.

Sec. 123. *"Special rated credit instrument" means a rated credit instrument that meets the requirements of section 136 of this act.*

Sec. 124. *"State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.*

Sec. 125. *"Substantially similar securities" means securities that meet all criteria for "substantially similar" specified in the Accounting Practices and Procedures Manual adopted by the NAIC, as amended, and in an amount that constitutes good delivery form as determined from time to time by the Public Securities Administration, or its successor organization.*

Sec. 126. *"SVO" means the Securities Valuation Office of the NAIC, or any successor office established by the NAIC.*

Sec. 127. *"Swap" means an agreement to exchange or to net payments at one or more times based on the actual or expected price, level, performance or value of one or more underlying interests.*

Sec. 128. *"Underlying interest" means the assets, liabilities, other interests or a combination thereof underlying a derivative instrument, including, without limitation, any one or more securities, currencies, rates, indices, commodities or derivative instruments.*

Sec. 129. *"Unrestricted surplus" means the amount by which total admitted assets exceed 125 percent of the insurer's required liabilities.*

Sec. 130. *"Warrant" means an instrument that:*

1. Gives the holder the right to purchase an underlying financial instrument at a given price and time or at a series of prices and times outlined in the warrant agreement; and

2. Is issued alone or in connection with the sale of other securities, including, without limitation, as part of a merger or recapitalization agreement, or to facilitate the divestiture of the securities of another business entity.

Sec. 131. *To qualify as an asset-backed security, a trust or other special purpose bankruptcy-remote business entity must meet the following conditions:*

1. The trust or other business entity is established solely for the purpose of acquiring specific types of assets or rights to cash flows, issuing securities and other instruments representing an interest in or right to receive cash flows from those assets or rights, and engaging in activities required to service the assets or rights and any credit enhancement or support features held by the trust or other business entity; and

2. The assets of the trust or other business entity consist solely of interest-bearing obligations or other contractual obligations representing the right to receive payment from the cash flows from the assets or rights. The existence of credit enhancements, including, without limitation, letters of credit or guarantees, or support features, including, without limitation, swap agreements, do not cause a security or other instrument to be ineligible as an asset-backed security.

Sec. 132. *1. Control, as defined in section 60 of this act, shall be deemed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing 10 percent or more of the voting securities of another person.*

2. A presumption of control may be rebutted by a showing that control does not exist in fact.

3. The Commissioner may determine, after furnishing all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

Sec. 133. *1. Except as otherwise provided in this section, the counterparty exposure amount is the net amount of credit risk attributable to an over-the-counter derivative instrument. The amount of credit risk equals:*

(a) The market value of the over-the-counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurer; or

(b) Zero, if the liquidation of the derivative instrument would not result in a final cash payment to the insurer.

2. If over-the-counter derivative instruments are entered into in accordance with a written master agreement which provides for netting of payments owed by the respective parties, and the domiciliary jurisdiction of the counterparty is either within the United States or, if not within the United States, within a foreign jurisdiction listed in the Purposes and Procedures Manual of the SVO as eligible for netting, the net amount of credit risk is the greater of zero or the net sum of:

(a) The market value of the over-the-counter derivative instruments entered into in accordance with the agreement, the liquidation of which would result in a final cash payment to the insurer; and

(b) The market value of the over-the-counter derivative instruments entered into in accordance with the agreement, the liquidation of which would result in a cash payment by the insurer to the business entity.

3. For open transactions, market value must be determined at the end of the most recent quarter of the insurer's fiscal year and must be reduced by the market value of acceptable collateral held by the insurer or placed in escrow by one or both parties.

Sec. 134. *To qualify as equivalent securities, the securities must be:*

1. In a securities lending transaction, securities that are identical to the loaned securities in all features including the amount of the loaned securities, except as to certificate number if held in physical form, but if any different security is exchanged for a loaned security by recapitalization, merger, consolidation or other corporate action, the different security shall be deemed to be the loaned security;

2. In a repurchase transaction, securities that are identical to the purchased securities in all features including the amount of the purchased securities, except as to the certificate number if held in physical form; or

3. In a reverse repurchase transaction, securities that are identical to the sold securities in all features including the amount of the sold securities, except as to the certificate number if held in physical form.

Sec. 135. *1. An investment shall not be deemed a foreign investment if the issuing person, qualified primary credit source or qualified guarantor is a domestic jurisdiction or a person domiciled in a domestic jurisdiction unless:*

(a) The issuing person is a shell business entity; and

(b) The investment is not assumed, accepted, guaranteed or insured or otherwise backed by a domestic jurisdiction or a person, that is not a shell business entity, domiciled in a domestic jurisdiction.

2. For the purposes of this section:

(a) "Qualified guarantor" means a guarantor against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction; and

(b) "Qualified primary credit source" means the credit source to which an insurer looks for payment as to an investment and against which an insurer has a direct claim for full and timely payment, evidenced by a contractual right for which an enforcement action can be brought in a domestic jurisdiction.

(c) "Shell business entity" means a business entity having no economic substance, except as a vehicle for owning interests in assets issued, owned or previously owned by a person domiciled in a foreign jurisdiction;

Sec. 136. *1. To qualify as a special rated credit instrument the instrument must be:*

(a) An instrument that is structured so that, if it is held until retired by or on behalf of the issuer, its rate of return, based on its purchase cost and any cash flow stream possible in accordance with the structure of the transaction, may become negative because of reasons other than the credit risk associated with the issuer of the instrument. A rated credit instrument is not a special rated credit instrument for the purposes of this section if it is:

(1) A share in a class one bond mutual fund;

(2) An instrument, other than an asset-backed security, with payments of par value fixed as to amount and timing, or callable but in any event payable only at par or greater, and interest or dividend cash flows that are based on either a fixed or variable rate determined by reference to a specified rate or index;

(3) An instrument, other than an asset-backed security, that has a par value and is purchased at a price not more than 110 percent of par;

(4) An instrument, including an asset-backed security, whose rate of return would become negative only as a result of a prepayment due to casualty, condemnation, economic obsolescence of collateral or change of law;

(5) An asset-backed security that relies on collateral that meets the requirements of subparagraph (2), the par value of which collateral:

(I) Is not allowed to be paid sooner than one-half of the remaining term to maturity from the date of acquisition;

(II) Is allowed to be paid before maturity only at a premium sufficient to provide a yield to maturity for the investment, considering the amount prepaid and reinvestment rates at the time of early repayment, at least equal to the yield to maturity of the initial investment; or

(III) Is allowed to be paid before maturity at a premium at least equal to the yield of a treasury issue of comparable remaining life; or

(6) An asset-backed security that relies on cash flows from assets that are not prepayable at any time at par, but is not otherwise governed by subparagraph (5), if the asset-backed security has a par value reflecting principal payments to be received if held until retired by or on behalf of the issuer and is purchased at a price not more than 105 percent of such par amount.

(b) An asset-backed security that:

(1) Relies on cash flows from assets that are prepayable at par at any time;

(2) Does not make payments of par that are fixed as to amount and timing; and

(3) Has a negative rate of return at the time of acquisition if a prepayment threshold assumption is used. As used in this subsection, "prepayment threshold assumption" includes:

(I) Two times the prepayment expectation reported by a recognized, publicly available source as being the median of expectations contributed by broker dealers or other entities, except insurers, engaged in the business of selling or evaluating such securities or assets. The prepayment expectation used in this calculation is, at the insurer's election, the prepayment expectation for pass-through securities of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Government National Mortgage Association, or, for other assets of the same type as the assets that underlie the asset-backed security, in either case with a gross weighted average coupon of the assets that underlie the asset-backed security.

(II) Another prepayment threshold assumption specified by the Commissioner by regulation adopted pursuant to section 158 of this act.

2. For the purposes of paragraph (b) of subsection 1, if the asset-backed security is purchased in combination with one or more other asset-backed securities that are supported by identical underlying collateral, the insurer may calculate the rate of return for these specific combined asset-backed securities in combination. The insurer shall maintain documentation demonstrating that such securities were acquired and are continuing to be held in combination.

Sec. 137. *Subject to the provisions of section 138 of this act, an insurer shall not acquire or hold an investment as an admitted asset unless at the time of acquisition the investment is:*

1. Eligible for the payment or accrual of interest or a discount, whether in cash or securities, eligible to receive dividends or other distributions or is otherwise income producing; or

2. Acquired in accordance with sections 168, 170, 176 to 180, inclusive, 182 to 185, inclusive, 208, 210, 216 to 220, inclusive, or 221 and 222 of this act or pursuant to the authority of this title, other than this chapter.

Sec. 138. *An insurer may acquire or hold as admitted assets investments that do not otherwise qualify as provided in this chapter if:*

1. The insurer has not acquired them for the purpose of circumventing any limitations contained in this chapter;

2. The insurer complies with the provisions of sections 154 and 157 of this act as to the investments; and

3. The insurer acquires the investments in the following circumstances:

(a) As payment on account of existing indebtedness or in connection with the refinancing, restructuring or workout of existing indebtedness, if taken to protect the insurer's interest in that investment;

(b) As realization on collateral for an obligation;

(c) In connection with an otherwise qualified investment or investment practice, as interest on, or a dividend or other distribution related to, the investment or investment practice, or in connection with the refinancing of the investment, in each case for no additional or only nominal consideration;

(d) Under a lawful and bona fide agreement of recapitalization or voluntary or involuntary reorganization in connection with an investment held by the insurer; or

(e) Under a bulk reinsurance, merger or consolidation transaction approved by the Commissioner if the assets constitute admissible investments for the ceding, merged or consolidated companies.

Sec. 139. *1. An investment, or portion of an investment, acquired by an insurer in accordance with section 138 of this act becomes a nonadmitted asset 3 years, or 5 years in the case of mortgage loans and real estate, after the date of its acquisition, unless within that period the investment has become a qualified investment in accordance with a provision of this chapter, other than section 138 of this act, but an investment acquired in accordance with an agreement of bulk reinsurance, merger or consolidation may be qualified for a longer period if so provided in the plan for reinsurance, merger or consolidation as approved by the Commissioner.*

2. Upon application by the insurer, and a showing that the nonadmission of an asset held in accordance with section 138 of this act would materially injure the interests of the insurer, the Commissioner may extend the period of admissibility for an additional reasonable period of time.

Sec. 140. *Except as otherwise provided in sections 141 and 143 of this act, an investment shall be deemed to qualify pursuant to this chapter if, on the date the insurer committed to acquire the investment or on the date of its acquisition, it would have qualified pursuant to this chapter. For the purposes of determining limitations contained in this chapter, an insurer shall give appropriate recognition to any commitments to acquire investments.*

Sec. 141. *1. An investment, held as an admitted asset by an insurer on July 1, 2015, which qualified pursuant to this chapter before July 1, 2015, shall be deemed to remain qualified as an admitted asset pursuant to this chapter.*

2. Each specific transaction constituting an investment practice of the type described in this chapter that was lawfully entered into by an insurer, and was in effect on July 1, 2015, must continue to be allowed in accordance with the provisions of this chapter until its expiration or termination in accordance with its terms.

Sec. 142. *Unless otherwise specified, an investment limitation computed on the basis of an insurer's admitted assets or capital and surplus shall relate to the amount required to be shown on the statutory balance sheet of the insurer most recently required to be filed with the Commissioner. For purposes of computing any limitation based on admitted assets, the insurer shall deduct from the amount of its admitted assets the amount of the liability recorded on its statutory balance sheet for:*

1. The return of acceptable collateral received in a reverse repurchase transaction or a securities lending transaction;

2. Cash received in a dollar roll transaction; and

3. The amount reported as borrowed money in the most recently filed financial statement to the extent not included in subsections 1 and 2.

Sec. 143. *An investment qualified, in whole or in part, for acquisition or holding as an admitted asset may be qualified or prequalified at the time of acquisition or a later date, in whole or in part, in accordance with any section of this chapter if the relevant conditions contained in that section are satisfied at the time of qualification or requalification.*

Sec. 144. *An insurer shall maintain documentation demonstrating that investments were acquired in accordance with the provisions of this chapter, and specifying the section of this chapter pursuant to which they were acquired.*

Sec. 145. *An insurer shall not enter into an agreement to purchase securities in advance of their issuance for resale to the public as part of a distribution of the securities by the issuer, or otherwise guarantee the distribution, except that an insurer may acquire privately placed securities with registration rights.*

Sec. 146. *Notwithstanding the provisions of this chapter, the Commissioner, for good cause, may, in accordance with the provisions of chapter 233B of NRS, order an insurer to nonadmit, limit, dispose of, withdraw from or discontinue an investment or investment practice. The authority of the Commissioner pursuant to this section is in addition to any other authority of the Commissioner.*

Sec. 147. *Insurance futures and insurance future options are not considered investments or investment practices for the purposes of this chapter.*

Sec. 148. *An insurer's board of directors shall adopt a written plan for acquiring and holding investments and for engaging in investment practices that specifies guidelines as to the quality, maturity and diversification of investments and other specifications, including, without limitation, investment strategies intended to ensure that the investments and investment*

practices are appropriate for the business conducted by the insurer, its liquidity needs and its capital and surplus. The board of directors shall review and assess the insurer's technical investment and administrative capabilities and expertise before adopting a written plan concerning an investment strategy or practice.

Sec. 149. *Investments acquired and held pursuant to this chapter must be acquired and held under the supervision and direction of the board of directors of the insurer. The board of directors shall evidence by formal resolution, at least annually, that it has determined whether all investments have been made in accordance with delegations, standards, limitations and investment objectives prescribed by the board or a committee of the board charged with the responsibility to direct the insurer's investments.*

Sec. 150. *On no less than a quarterly basis, and more often if deemed appropriate, an insurer's board of directors or a committee of the board shall:*

1. Receive and review a summary report on the insurer's investment portfolio, its investment activities and practices engaged in pursuant to delegated authority, in order to determine whether the investment activity or practice of the insurer is consistent with its written plan; and

2. Review and revise, as appropriate, the written plan.

Sec. 151. *In discharging its duties pursuant to sections 148 to 153, inclusive, of this act, the board of directors shall require that the records of any authorizations or approvals, other documentation as the board may require and reports of any action taken pursuant to authority delegated in accordance with the written plan referred to in section 148 of this act be made available on a regular basis to the board of directors.*

Sec. 152. *In discharging its duties pursuant to sections 148 to 153, inclusive, of this act, the board of directors of an insurer shall perform its duties in good faith and with that degree of care that ordinarily prudent individuals in like positions would use under similar circumstances.*

Sec. 153. *If an insurer does not have a board of directors, all references to the board of directors in this chapter shall be deemed to be references to the governing body of the insurer having authority equivalent to that of a board of directors.*

Sec. 154. *1. An insurer shall not, directly or indirectly:*

(a) Invest in an obligation or security, or make a guarantee for the benefit of or in favor of an officer or director of the insurer, except as provided in sections 155 and 156 of this act;

(b) Invest in an obligation or security, make a guarantee for the benefits of or in favor of, or make other investments in a business entity of which 10 percent or more of the voting securities or equity interests are owned directly or indirectly by, or for the benefit of, one or more officers or directors of the insurer, except as authorized in chapter 692C of NRS or provided in sections 155 and 156 of this act;

(c) Engage on its own behalf, or through one or more affiliates, in a transaction or series of transactions designed to evade the prohibitions of this chapter;

(d) Invest in a partnership as a general partner, except that an insurer may make an investment as a general partner:

(1) If all other partners are subsidiaries of the insurer;

(2) For the purpose of:

(I) Meeting cash calls committed to before July 1, 2015;

(II) Completing those specific projects or activities of the partnership in which the insurer was a general partner on July 1, 2015, that had been undertaken as of that date; or

(III) Making capital improvements to property owned by the partnership on July 1, 2015, if the insurer was a general partner as of that date; or

(3) Pursuant to section 138 of this act; or

(e) Invest in or lend its funds upon the security of shares of its own stock, except that an insurer may acquire shares of its own stock for the following purposes:

(1) Conversion of a stock insurer into a mutual or reciprocal insurer or a mutual or reciprocal insurer into a stock insurer;

(2) Issuance to the insurer's officers, employees or agents in connection with a plan approved by the Commissioner for converting a publicly held insurer into a privately held insurer pursuant to NRS 693A.400 to 693A.540, inclusive, or in connection with other stock option and employee benefit plans; or

(3) In accordance with any other plan approved by the Commissioner.

2. Nothing contained in paragraph (d) of subsection 1 shall be construed to prohibit a subsidiary or other affiliate of the insurer from becoming a general partner.

3. Any investment or loan made by an insurer in accordance with the provisions of paragraph (e) of subsection 1 must not be an admitted asset of the insurer.

Sec. 155. *1. Except as otherwise provided in section 156 of this act, an insurer shall not, without the prior written approval of the Commissioner, directly or indirectly:*

(a) Make a loan to, or another investment in, an officer or director of the insurer, or a person in which the officer or director has any direct or indirect financial interest;

(b) Make a guarantee for the benefit of, or in favor of, an officer or director of the insurer, or a person in which the officer or director has any direct or indirect financial interest; or

(c) Enter into an agreement for the purchase or sale of property from or to an officer or director of the insurer, or a person in which the officer or director has any direct or indirect financial interest.

2. For the purposes of this section, an officer or director shall not be deemed to have a financial interest by reason of an interest that is held directly or indirectly through the ownership of equity interests representing less than 2 percent of all outstanding equity interests issued by a person that is a party to the transaction, or solely by reason of that individual's position as a director or officer of a person that is a party to the transaction.

3. This section does not allow an investment that is prohibited by section 154 of this act.

4. This section does not apply to a transaction between an insurer and any of its subsidiaries or affiliates that is entered into in compliance with the provisions of chapter 692C of NRS, other than a transaction between an insurer and its officer or director.

Sec. 156. *An insurer may, without the prior written approval of the Commissioner, make:*

1. Policy loans in accordance with the terms of the policy or contract and section 189 of this act;

2. Advances to officers or directors for expenses reasonably expected to be incurred in the ordinary course of the insurer's business or guarantees associated with credit or charge cards issued, or credit extended, for the purpose of financing these expenses;

3. Loans secured by the principal residence of an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans comply with the requirements of sections 174 to 177, inclusive, or 214 to 217, inclusive, of this act and the terms and conditions otherwise are the same as those generally available from unaffiliated third parties;

4. Secured loans to an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans:

(a) Do not have a term exceeding 2 years;

(b) Are required to finance mortgage loans outstanding at the same time on the prior and new residences of the officer;

(c) Do not exceed an amount equal to the equity of the officer in the prior residence; and

(d) Are required to be fully repaid upon the earlier of the end of the 2-year period or the sale of the prior residence; or

5. Loans and advances to officers or directors made in compliance with state or federal law specifically related to the loans and advances by a regulated noninsurance subsidiary or affiliate of the insurer in the ordinary course of business and on terms not more favorable than available to other customers of the entity.

Sec. 157. *For the purposes of this chapter, the value or amount of an investment acquired or held, or an investment practice engaged in, pursuant to this chapter, unless otherwise specified in this title, is the value at which assets of an insurer are required to be reported for statutory accounting purposes as determined in accordance with procedures prescribed in*

published accounting and valuation standards of the NAIC, including, without limitation, the Purposes and Procedures Manual of the SVO and the Valuation of Securities Manual, the Accounting Practices and Procedures Manual, the Annual Statement Instructions or any successor valuation procedures officially adopted by the NAIC.

Sec. 158. *The Commissioner may, pursuant to chapter 233B of NRS, adopt regulations to carry out the provisions of this chapter.*

Sec. 159. *Sections 159 to 193, inclusive, of this act apply to the investments and investment practices of life and health insurers.*

Sec. 160. *1. Except as otherwise specified in this chapter, an insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment in accordance with the provisions of this chapter if, as a result of and after giving effect to the investment, the insurer would hold more than 3 percent of its admitted assets in investments of all kinds issued, assumed, accepted, insured or guaranteed by a single person, or 5 percent of its admitted assets in investments in the voting securities of a depository institution or any company that controls the institution.*

2. The limitations in subsection 1 do not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization.

3. Asset-backed securities are not subject to the limitations in subsection 1. However, an insurer shall not acquire an asset-backed security if, as a result of and after giving effect to the investment, the aggregate amount of asset-backed securities secured by, or evidencing an interest in, a single asset or single pool of assets held by a trust or other business entity held by the insurer would exceed 3 percent of its admitted assets.

Sec. 161. *1. An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment in accordance with the provisions of sections 163, 169 to 173, inclusive, or 179 to 183, inclusive, of this act, or counterparty exposure in accordance with the provisions of section 187 of this act if, as a result of and after giving effect to the investment:*

(a) The aggregate amount of medium and lower grade investments held by the insurer would exceed 20 percent of its admitted assets;

(b) The aggregate amount of lower grade investments held by the insurer would exceed 10 percent of its admitted assets;

(c) The aggregate amount of investments rated 5 or 6 by the SVO held by the insurer would exceed 3 percent of its admitted assets;

(d) The aggregate amount of investments rated 6 by the SVO held by the insurer would exceed 1 percent of its admitted assets;

(e) The aggregate amount of medium and lower grade investments held by the insurer that receive as cash income less than the equivalent yield for United States Treasury issues with a comparative average life, would exceed 1 percent of its admitted assets;

(f) The aggregate amount of medium and lower grade investments issued, assumed, guaranteed, accepted or insured by any one person or, as to

asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, held by the insurer would exceed 1 percent of its admitted assets; or

(g) The aggregate amount of lower grade investments issued, assumed, guaranteed, accepted or insured by any one person or, as to asset-backed securities secured by or evidencing an interest in a single asset or pool of assets, held by the insurer would exceed 0.5 percent of its admitted assets.

2. If an insurer attains or exceeds the limit of any one rating category referred to in this section, the insurer is not precluded from acquiring investments in other rating categories subject to the specific and multicategory limits applicable to those investments.

Sec. 162. *1. An insurer shall not acquire, directly or indirectly through an investment subsidiary, a Canadian investment authorized by the provisions of this chapter if, as a result of and after giving effect to the investment, the aggregate amount of these investments held by the insurer would exceed 40 percent of its admitted assets, or if the aggregate amount of Canadian investments not acquired in accordance with the provisions of paragraph (c) or (d) of subsection 2 of section 163 of this act held by the insurer would exceed 25 percent of its admitted assets.*

2. As to an insurer that is authorized to do business in Canada or that has outstanding insurance, annuity or reinsurance contracts on lives or risks resident or located in Canada and denominated in Canadian currency, the limitations in subsection 1 must be increased by the greater of:

(a) The amount the insurer is required by Canadian law to invest in Canada or to be denominated in Canadian currency; or

(b) An amount not to exceed 115 percent of the amount of its reserves and other obligations under contracts on lives or risks resident or located in Canada.

Sec. 163. *1. Subject to the limitations of section 161 of this act, but not to the limitations of section 160 of this act, an insurer may acquire rated credit instruments issued, assumed, guaranteed or insured by:*

(a) The United States;

(b) A government-sponsored enterprise of the United States, if the instruments of the government-sponsored enterprise are assumed, guaranteed or insured by the United States or are otherwise backed or supported by the full faith and credit of the United States;

(c) Canada; or

(d) A government-sponsored enterprise of Canada, if the instruments of the government-sponsored enterprise are assumed, guaranteed or insured by Canada or are otherwise backed or supported by the full faith and credit of Canada.

2. An insurer shall not acquire an instrument in accordance with paragraph (c) or (d) of subsection 1 if, as a result of and after giving effect to the investment, the aggregate amount of investments held by the insurer in

accordance with paragraph (c) or (d) of subsection 1 would exceed 40 percent of its admitted assets.

3. Subject to the limitations of section 161 of this act, but not to the limitations of section 160 of this act, an insurer may acquire credit rated instruments, excluding asset-backed securities:

(a) Issued by a government money market mutual fund, a class one money market mutual fund or a class one bond mutual fund;

(b) Issued, assumed, guaranteed or insured by a government-sponsored enterprise of the United States other than those eligible under subsection 1;

(c) Issued, assumed, guaranteed or insured by a state, if the instruments are general obligations of the state; or

(d) Issued by a multilateral development bank.

4. An insurer shall not acquire an instrument of any one fund, any one enterprise or entity or any one state as described in subsection 3 if, as a result of and after giving effect to the investment, the aggregate amount of investments held in any one fund, enterprise or entity, or state would exceed 10 percent of the insurer's admitted assets.

5. Subject to the limitations of sections 160, 161 and 162 of this act, an insurer may acquire preferred stocks that are not foreign investments and which meet the requirements of rated credit instruments if, as a result of and after giving effect to the investment:

(a) The aggregate amount of preferred stocks held by the insurer in accordance with this section does not exceed 20 percent of the insurer's admitted assets; and

(b) The aggregate amount of preferred stocks held by the insurer in accordance with this section which are not sinking fund stocks or rated P1 or P2 by the SVO does not exceed 10 percent of the insurer's admitted assets.

6. Subject to the limitations of sections 160, 161 and 162 of this act, in addition to those investments eligible pursuant to subsections 1 to 5, inclusive, an insurer may acquire rated credit instruments that are not foreign investments.

7. An insurer shall not acquire special rated credit instruments as described in this section if, as a result of and after giving effect to the investment, the aggregate amount of special rated credit instruments held by the insurer would exceed 5 percent of the insurer's admitted assets.

Sec. 164. *1. An insurer may acquire investments in investment pools that invest only in:*

(a) Obligations with an SVO rating of 1 or 2, or the equivalent of an SVO rating of 1 or 2 by a nationally recognized statistical rating organization recognized by the SVO, or, in the absence of an equivalent rating, the issuer has outstanding obligations with the equivalent of an SVO rating of 1 or 2, or an equivalent rating, and have:

(1) A remaining maturity of 397 days or less or a put option that entitles the holder to receive the principal amount of the obligation with the ability to

exercise the put option through maturity at specified intervals not exceeding 397 days; or

(2) A remaining maturity less than or equal to 3 years and a floating interest rate that resets not less frequently than quarterly on the basis of a current short-term index and is not subject to a maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes. For the purposes of this subparagraph, qualifying short-term indexes include, without limitation, the federal funds rate, prime rate, treasury bills rates, the London Interbank Offered Rate or commercial paper rates.

(b) Government money market mutual funds or class one money market mutual funds.

(c) Securities lending, repurchase and reverse repurchase transactions that meet all the requirements of section 178 of this act, except the quantitative limitations of subsection 4 of section 178 of this act.

(d) Investments which an insurer may acquire pursuant to this chapter if the insurer's proportionate interest in the amount invested in these investments does not exceed the applicable limits of this chapter.

2. For an investment in an investment pool to be qualified pursuant to this chapter, the investment pool must not:

(a) Acquire securities issued, assumed, guaranteed or insured by the insurer or an affiliate of the insurer;

(b) Borrow or incur any indebtedness for borrowed money, except for securities lending and reverse repurchase transactions that meet the requirements of section 178 of this act, except the quantitative limitations of subsection 4 of section 178 of this act; or

(c) Permit the aggregate value of securities loaned or sold to, purchased from or invested in any one business entity in accordance with this section to exceed 10 percent of the total assets of the investment pool.

3. The limitations of section 160 of this act do not apply to an insurer's investment in an investment pool, however an insurer shall not acquire an investment in an investment pool in accordance with this section if, as a result of and after giving effect to the investment, the aggregate amount of investments held by the insurer in accordance with this section:

(a) In any one investment pool would exceed 10 percent of its admitted assets;

(b) In all investment pools investing in investments permitted in accordance with paragraph (d) of subsection 1 would exceed 25 percent of its admitted assets; or

(c) In all investment pools would exceed 35 percent of its admitted assets.

4. For an investment in an investment pool to be qualified pursuant to this chapter, the manager of the investment pool must:

(a) Be organized in accordance with the laws of the United States or a state and designated as the pool manager in a pooling agreement;

(b) Be the insurer, an affiliated insurer or a business entity affiliated with the insurer, a qualified bank, a business entity registered in accordance with the provisions of the Investment Advisers Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as amended, or, in the case of a reciprocal insurer or interinsurance exchange, its attorney-in-fact, or in the case of a United States branch of an alien insurer, its United States manager or affiliates or subsidiaries of its United States manager;

(c) Compile and maintain detailed accounting records setting forth:

(1) The cash receipts and disbursements reflecting each participant's proportionate investments in the investment pool;

(2) A complete description of all underlying assets of the investment pool, including, without limitation, amount, interest rate, maturity date, if any, and other appropriate designations; and

(3) Other records which, on a daily basis, allow third parties to verify each participant's investment in the investment pool; and

(d) Maintain the assets of the investment pool in one or more accounts, in the name of or on behalf of the investment pool, in accordance with a custody agreement with a qualified bank. The custody agreement must:

(1) State and recognize the claims and rights of each participant;

(2) Acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its investments in the investment pool; and

(3) Contain an agreement that the underlying assets of the investment pool must not be commingled with the general assets of the custodian qualified bank or any other person.

5. The pooling agreement for each investment pool must be in writing and must provide that:

(a) An insurer and its affiliated insurers or, in the case of an investment pool investing solely in investments allowed in accordance with paragraph (a) of subsection 1, the insurer and its subsidiaries, affiliates or any pension or profit-sharing plan of the insurer, its subsidiaries and affiliates or, in the case of a United States branch of an alien insurer, affiliates or subsidiaries of its United States manager, shall at all times hold 100 percent of the interests in the investment pool.

(b) The underlying assets of the investment pool must not be commingled with the general assets of the pool manager or any other person.

(c) In proportion to the aggregate amount of each pool participant's interest in the investment pool:

(1) Each participant owns an undivided interest in the underlying assets of the investment pool; and

(2) The underlying assets of the investment pool are held solely for the benefit of each participant.

(d) A participant, or in the event of the participant's insolvency, bankruptcy or receivership, its trustee, receiver or other

successor-in-interest, may withdraw all or any portion of its investment from the investment pool in accordance with the terms of the pooling agreement.

(e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlements of funds must occur within a reasonable and customary period thereafter not to exceed 5 business days. Distributions in accordance with this paragraph must be calculated in each case net of all applicable fees and expenses of the investment pool. The pooling agreement must provide that the pool manager shall distribute to a participant, at the discretion of the pool manager:

(1) In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

(2) In kind, a pro rata share of each underlying asset; or

(3) In a combination of cash and in-kind distributions, a pro rata share in each underlying asset.

(f) The pool manager shall make the records of the investment pool available for inspection by the Commissioner.

Sec. 165. *Subject to the limitations of sections 160, 161 and 162 of this act, an insurer may acquire equity interests in business entities organized in accordance with the laws of any domestic jurisdiction.*

Sec. 166. *An insurer shall not acquire an investment in accordance with the provisions of sections 165 to 168, inclusive, of this act if, as a result of and after giving effect to the investment, the aggregate amount of investments held by the insurer in accordance with those sections would exceed 20 percent of the insurer's admitted assets, or the amount of equity interests held by the insurer that are not listed on a qualified exchange would exceed 5 percent of the insurer's admitted assets. An accident and health insurer is not subject to the provisions of sections 165 to 168, inclusive, of this act, but is subject to the same aggregate limitation on equity interests as a property and casualty insurer in accordance with the provisions of sections 195 to 199, inclusive, and 205 to 208, inclusive, of this act.*

Sec. 167. *An insurer shall not acquire in accordance with the provisions of sections 165 to 168, inclusive, of this act any investments that the insurer may acquire in accordance with the provisions of sections 174 to 177, inclusive, of this act.*

Sec. 168. *An insurer shall not short sell equity investments unless the insurer covers the short sale by owning the equity investment or an unrestricted right to the equity investment exercisable within 6 months after the short sale.*

Sec. 169. *1. Subject to the limitations of sections 160, 161 and 162 of this act, an insurer may acquire tangible personal property or equity interests therein located or used wholly or in part within a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by paragraph (d) of subsection 1 of section 154 of this act, joint ventures, stock of an*

investment subsidiary or membership interests in a limited-liability company, trust certificates or other similar instruments.

2. Investments acquired as described in subsection 1 are eligible only if:

(a) The property is subject to a lease or other agreement with a person whose rated credit instruments in the amount of the purchase price of the personal property the insurer could acquire in accordance with the provisions of section 163 of this act; and

(b) The lease or other agreement provides the insurer the right to receive rental, purchase or other fixed payments for the use or purchase of the property, and the aggregate value of the payments, together with the estimated residual value of the property at the end of its useful life and the estimated tax benefits to the insurer resulting from ownership of the property, must be adequate to return the cost of the insurer's investment in the property, plus a return deemed adequate by the insurer.

Sec. 170. *The insurer shall compute the amount of each investment acquired in accordance with the provisions of sections 169 to 173, inclusive, of this act on the basis of the out-of-pocket purchase price and applicable related expenses paid by the insurer for the investment, net of each borrowing made to finance the purchase price and expenses, to the extent the borrowing is without recourse to the insurer.*

Sec. 171. *An insurer shall not acquire an investment in accordance with the provisions of sections 169 to 173, inclusive, of this act if, as a result of and after giving effect to the investment, the aggregate amount of all investments held by the insurer in accordance with the provisions of sections 169 to 173, inclusive, of this act would exceed:*

1. Two percent of its admitted assets; or

2. One half of one percent of its admitted assets as to any single item of tangible personal property.

Sec. 172. *For the purposes of determining compliance with the limitations of sections 160, 161 and 162 of this act, investments acquired by an insurer in accordance with the provisions of sections 169 to 173, inclusive, of this act must be aggregated with those acquired in accordance with the provisions of section 163 of this act, and each lessee of the property under a lease referred to in sections 169 to 173, inclusive, of this act shall be deemed the issuer of an obligation in the amount of the investment of the insurer in the property determined as provided in section 170 of this act.*

Sec. 173. *Nothing in sections 169 to 173, inclusive, of this act applies to tangible personal property lease arrangements between an insurer and its subsidiaries and affiliates in accordance with a cost-sharing arrangement or agreement permitted in accordance with the provisions of chapter 692C of NRS.*

Sec. 174. *1. Subject to the limitations of sections 160, 161 and 162 of this act, an insurer may acquire, either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by paragraph (d) of subsection 1 of section 154 of this act, joint*

ventures, stock of an investment subsidiary or membership interests in a limited-liability company, trust certificates or other similar instruments, obligations secured by mortgages on real estate situated within a domestic jurisdiction.

2. A mortgage loan which is secured by other than a first lien must not be acquired unless the insurer is the holder of the first lien.

3. The obligations held by the insurer and any obligations with an equal lien priority shall not, at the time of acquisition of the obligation, exceed:

(a) Ninety percent of the fair market value of the real estate, if the mortgage loan is secured by a purchase money mortgage or like security received by the insurer upon disposition of the real estate.

(b) Eighty percent of the fair market value of the real estate, if the mortgage loan requires immediate scheduled payment in periodic installments of principal and interest, has an amortization period of not more than 30 years and periodic payments made not less frequently than annually. Each periodic payment must be sufficient to ensure that at all times the outstanding principal balance of the mortgage loan is not greater than the outstanding principal balance that would be outstanding under a mortgage loan with the same original principal balance, with the same interest rate and requiring equal payments of principal and interest with the same frequency over the same amortization period. Mortgage loans allowed in accordance with this section are allowed notwithstanding the fact that they provide for a payment of the principal balance before the end of the period of amortization of the loan. For residential mortgage loans, the 80-percent limitation may be increased to 97 percent if acceptable private mortgage insurance has been obtained.

(c) Seventy-five percent of the fair market values of the real estate for mortgage loans that do not meet the requirements of paragraph (a) or (b).

4. For purposes of subsections 1, 2 and 3, the amount of an obligation required to be included in the calculation of the loan-to-value ratio may be reduced to the extent the obligation is insured by the Federal Housing Administration or guaranteed by the Administrator of Veterans Affairs, or their successors.

5. A mortgage loan that is held by an insurer pursuant to section 141 of this act or acquired in accordance with the provisions of sections 174 to 177, inclusive, of this act, and is restructured in a manner that meets the requirements of a restructured mortgage loan in conformance with the Accounting Practices and Procedures Manual adopted by the NAIC will continue to qualify as a mortgage loan in accordance with the provisions of this chapter.

6. Subject to the limitations of sections 160, 161 and 162 of this act, credit lease transactions that do not qualify for investment pursuant to section 163 of this act are exempt from the provisions of subsections 1, 2 and 3 if they meet the following criteria:

(a) The loan amortizes over the initial fixed lease term at least in an amount sufficient so that the loan balance at the end of the lease term does not exceed the original appraised value of the real estate;

(b) The lease payments cover or exceed the total debt service over the life of the loan;

(c) A tenant or its affiliated entity whose rated credit instruments have an SVO rating of 1 or 2, or a comparable rating from a nationally recognized statistical rating organization recognized by the SVO, has a full faith and credit obligation to make the lease payments;

(d) The insurer holds or is the beneficial holder of a first lien mortgage on the real estate;

(e) The expenses of the real estate are passed through to the tenant, excluding exterior, structural, parking and heating, ventilation and air conditioning replacement expenses, unless annual escrow contributions, from cash flows derived from the lease payments, cover the expense shortfall; and

(f) There is a perfected assignment of the rents due pursuant to the lease to, or for the benefit of, the insurer.

Sec. 175. *1. An insurer may acquire, manage and dispose of real estate situated in a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by paragraph (d) of subsection 1 of section 154 of this act, joint ventures, stock of an investment subsidiary or membership interests in a limited-liability company, trust certificates or other similar instruments. The real estate must be income producing or intended for improvement or development for investment purposes under an existing program, in which case the real estate shall be deemed to be income producing.*

2. The real estate may be subject to mortgages, liens or other encumbrances, the amount of which must, to the extent that the obligations secured by the mortgages, liens or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with subsections 2 and 3 of section 177 of this act.

Sec. 176. *1. An insurer may acquire, manage and dispose of real estate for the convenient accommodation of the insurer's, and its affiliates, business operations, including home office, branch office and filed office operations.*

2. Real estate acquired as described in this section may include excess space for rent to others, if the excess space, valued at its fair market value, would otherwise be an allowed investment in accordance with the provisions of section 175 of this act and is so qualified by the insurer.

3. The real estate acquired as described in this section may be subject to one or more mortgages, liens or other encumbrances, the amount of which must, to the extent that the obligations secured by the mortgages, liens or encumbrances are without recourse to the insurer, be deducted from the

amount of the investment of the insurer in the real estate for purposes of determining compliance with subsection 4 of section 177 of this act.

4. For the purposes of this section, business operations must not include that portion of real estate used for the direct provision of health care services by an accident and health insurer for its insureds. An insurer may acquire real estate used for these purposes under section 175 of this act.

Sec. 177. *1. An insurer shall not acquire an investment in accordance with the provisions of section 174 of this act if, as a result of and after giving effect to the investment, the aggregate amount of all investments held by the insurer pursuant to that section would exceed:*

(a) One percent of its admitted assets in mortgage loans covering any one secured location;

(b) One-quarter of one percent of its admitted assets in construction loans covering any one secured location; or

(c) Two percent of its admitted assets in construction loans in the aggregate.

2. An insurer shall not acquire an investment under section 175 of this act if, as a result of and after giving effect to the investment and any outstanding guarantees made by the insurer in connection with the investment, the aggregate amount of investments held by the insurer under section 175 of this act plus the guarantees outstanding would exceed:

(a) One percent of its admitted assets in one parcel or group of contiguous parcels of real estate, except that this limitation does not apply to that portion of real estate used for the direct provision of health care services by an accident and health insurer for its insureds, such as hospitals, medical clinics, medical professional buildings or other health facilities used for the purpose of providing health services; or

(b) Fifteen percent of its admitted assets in the aggregate, but not more than 5 percent of its admitted assets as to properties that are to be improved or developed.

3. An insurer shall not acquire an investment pursuant to sections 174 and 175 of this act if, as a result of and after giving effect to the investment and any guarantees made by the insurer in connection with the investment, the aggregate amount of all investments held by the insurer in accordance with those sections plus the guarantees outstanding would exceed 45 percent of the insurer's admitted assets. An insurer may exceed this limitation by not more than 30 percent of the insurer's admitted assets if:

(a) This increased amount is invested only in residential mortgage loans;

(b) The insurer has not more than 10 percent of the insurer's admitted assets invested in mortgage loans other than residential mortgage loans;

(c) The loan-to-value ratio of each residential mortgage loan does not exceed 60 percent at the time the mortgage loan is qualified pursuant to this increased authority, and the fair market value is supported by an appraisal that is not more than 2 years old and prepared by an independent appraiser;

(d) A single mortgage loan qualified pursuant to this increased authority does not exceed 0.5 percent of the insurer's admitted assets;

(e) The insurer files with the Commissioner, and receives approval from the Commissioner for, a plan that is designed to result in a portfolio of residential mortgage loans that is sufficiently geographically diversified; and

(f) The insurer agrees to file annually with the Commissioner records which demonstrate that the insurer's portfolio of residential mortgage loans is geographically diversified in accordance with the plan.

4. The limitations of sections 160, 161 and 162 of this act do not apply to an insurer's acquisition of real estate under section 175 of this act. An insurer shall not acquire real estate under section 175 of this act if, as a result of and after giving effect to the acquisition, the aggregate amount of real estate held by the insurer in accordance with that section would exceed 10 percent of its admitted assets. With the approval of the Commissioner, additional amounts of real estate may be acquired under section 175 of this act.

Sec. 178. *An insurer may enter into securities lending, repurchase, reverse repurchase and dollar roll transactions with business entities, subject to the following requirements:*

1. The insurer's board of directors shall adopt a written plan that is consistent with the requirements of the written plan in section 148 of this act which specifies the guidelines and objectives to be followed, including, without limitation:

(a) A description of how cash received will be invested or used for general corporate purposes of the insurer;

(b) Operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from reverse repurchase transactions may be used in the ordinary course of business and the use of acceptable collateral in a manner that reflects the liquidity needs of the transactions; and

(c) The extent to which the insurer may engage in these transactions.

2. The insurer shall enter into a written agreement for all transactions authorized by this section other than dollar roll transactions. The written agreement must require that each transaction terminate not more than 1 year after its inception or upon the earlier demand of the insurer. The agreement must be with the business entity counterparty, but for securities lending transactions, the agreement may be with an agent acting on behalf of the insurer, if the agent is a qualified business entity and if the agreement:

(a) Requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

(b) Prohibits securities lending transactions under the agreement with the agent or its affiliates.

3. Cash received in a transaction as described in this section must be invested in accordance with the provisions of this chapter and in a manner that recognizes the liquidity needs of the transaction or used by the insurer

for its general corporate purposes. For so long as the transaction remains outstanding, the insurer, its agent or custodian shall maintain, as to acceptable collateral received in a transaction in accordance with this section, either physically or through book entry systems of the Federal Reserve, the Depository Trust Company, the Participants Trust Company or any other securities depositories approved by the Commissioner:

(a) Possession of the acceptable collateral;

(b) A perfected security interest in the acceptable collateral; or

(c) In the case of a jurisdiction outside of the United States, title to, or rights of a secured creditor to, the acceptable collateral.

4. The limitations of sections 160, 161, 162 and 179 to 183, inclusive, of this act do not apply to the business entity counterparty exposure created by transactions entered into under this section. For purposes of calculations made to determine compliance with this subsection, no effect will be given to the insurer's future obligation to resell securities, in the case of a repurchase transaction, or to repurchase securities, in the case of a reverse repurchase transaction. An insurer shall not enter into a transaction under this section if, as a result of and after giving effect to the transaction:

(a) The aggregate amount of securities loaned, sold or purchased from any one business entity counterparty under this section would exceed 5 percent of its admitted assets. In calculating the amount sold to or purchased from a business entity counterparty in accordance with repurchase or reverse purchase transactions, effect may be given to netting provisions under a master written agreement.

(b) The aggregate amount of all securities loaned, sold to or purchased from all business entities under this section would exceed 40 percent of its admitted assets.

5. In a securities lending transaction, the insurer shall receive acceptable collateral having a market value on the transaction date equal to 102 percent or more of the market value of the securities loaned by the insurer in the transaction on that date. If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity counterparty is obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral held in connection with the transaction, equals 102 percent or more of the market value of the loaned securities.

6. In a reverse repurchase transaction, other than a dollar roll transaction, the insurer shall receive acceptable collateral having a market value on the transaction date equal to 95 percent or more of the market value of the securities transferred by the insurer in the transaction on that date. If at any time the market value of the acceptable collateral is less than 95 percent of the market value of the securities so transferred, the business entity counterparty is obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable

collateral held in connection with the transaction, equals 95 percent or more of the market value of the transferred securities.

7. In a dollar roll transaction, the insurer shall receive cash in an amount equal to at least the market value of the securities transferred by the insurer in the transaction on the transaction date.

8. In a repurchase transaction, the insurer shall receive as acceptable collateral transferred securities having a market value equal to 102 percent or more of the purchase price paid by the insurer for the securities. If at any time the market value of the acceptable collateral is less than 100 percent of the purchase price paid by the insurer, the business entity counterparty is obligated to provide additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral held in connection with the transaction, equals 102 percent or more of the purchase price. Securities acquired by an insurer in a repurchase transaction may not be sold in a reverse repurchase transaction, loaned in a securities lending transaction or otherwise pledged.

9. To constitute acceptable collateral for the purposes of this section, a letter of credit must have an expiration date beyond the term of the subject transaction.

Sec. 179. *Subject to the limitations of sections 160, 161 and 162 of this act, an insurer may acquire foreign investments, or engage in investment practices with persons of or in foreign jurisdictions, of substantially the same type as those that an insurer is allowed to acquire pursuant to this chapter, other than of the type allowed under section 164 of this act if, as a result of and after giving effect to the investments:*

1. The aggregate amount of foreign investments held by the insurer in accordance with this section does not exceed 20 percent of its admitted assets; and

2. The aggregate amount of foreign investments held by the insurer in accordance with this section in a single foreign jurisdiction does not exceed 10 percent of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or 3 percent of its admitted assets as to any other foreign jurisdiction.

Sec. 180. *1. Subject to the limitations of sections 160, 161 and 162 of this act, an insurer may acquire investments, or engage in investment practices denominated in foreign currencies, whether or not they are foreign investments acquired as described in section 179 of this act, or additional foreign currency exposure as a result of the termination or expiration of a hedging transaction with respect to investments denominated in a foreign currency if:*

(a) The aggregate amount of investments held by the insurer in accordance with this section denominated in foreign currencies does not exceed 10 percent of its admitted assets; and

(b) The aggregate amount of investments held by the insurer in accordance with this section denominated in the foreign currency of a single

foreign jurisdiction does not exceed 10 percent of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or 3 percent of its admitted assets as to any other foreign jurisdiction.

2. An investment must not be considered denominated in a foreign currency if the acquiring insurer enters into one or more contracts in transactions allowed under sections 184 to 188, inclusive, of this act and the business entity counterparty agrees in the contract or contracts to exchange all payments made on the foreign currency denominated investment for United States currency at a rate which effectively insulates the investment cash flows against future changes in currency exchange rates during the period the contract or contracts are in effect.

Sec. 181. *In addition to investments allowed under sections 179 and 180 of this act, an insurer that is authorized to do business in a foreign jurisdiction, and that has outstanding insurance, annuity or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in a foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction, subject to the limitations of sections 160, 161 and 162 of this act. Investments made in accordance with this section in obligations of foreign governments, their political subdivisions and government-sponsored enterprises are not subject to the limitations of sections 160, 161 and 162 of this act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer in accordance with this section must not exceed the greater of:*

1. The amount the insurer is required by the law of the foreign jurisdiction to invest in the foreign jurisdiction; or

2. One hundred fifteen percent of the amount of the insurer's reserves, net of reinsurance, and other obligations under the contracts on lives or risks resident or located in the foreign jurisdiction.

Sec. 182. *In addition to investments allowed under sections 179 and 180 of this act, an insurer that is not authorized to do business in a foreign jurisdiction, but which has outstanding insurance, annuity or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction subject to the limitations of sections 160, 161 and 162 of this act. Investments made in accordance with this section in obligations of foreign governments, their political subdivisions and government-sponsored enterprises are not subject to the limitations of sections 160, 161 and 162 of this act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer in accordance with this section must not exceed 105 percent of the amount of the insurer's reserves, net of reinsurance, and other obligations under the contracts on lives or risks resident or located in the foreign jurisdiction.*

Sec. 183. *Investments acquired in conformance with sections 179 to 183, inclusive, of this act must be aggregated with investments of the same types made under this chapter, and in a similar manner, for purposes of determining compliance with the limitations, if any, contained in this chapter. Investments in obligations of foreign governments, their political subdivisions and government-sponsored enterprises of these persons, except for those exempted by sections 181 and 182 of this act, are subject to the limitations of sections 160, 161 and 162 of this act.*

Sec. 184. *An insurer may, directly or indirectly through an investment subsidiary, engage in derivative transactions as described in sections 184 to 188, inclusive, of this act pursuant to the following conditions:*

1. An insurer may use derivative instruments under sections 184 to 188, inclusive, of this act to engage in hedging transactions and certain income generation transactions, as these terms may be further defined in regulations adopted by the Commissioner pursuant to section 158 of this act; and

2. An insurer must be able to demonstrate to the Commissioner the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of the transactions through cash flow testing or other appropriate analyses.

Sec. 185. *An insurer may enter into hedging transactions under sections 184 to 188, inclusive, of this act if, as a result of and after giving effect to the transaction:*

1. The aggregate statement value of options, caps, floors and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed 7.5 percent of its admitted assets;

2. The aggregate statement value of options, caps and floors written in hedging transactions does not exceed 3 percent of its admitted assets; and

3. The aggregate potential exposure of collars, swaps, forwards and futures used in hedging transactions does not exceed 6.5 percent of its admitted assets.

Sec. 186. *An insurer may only enter into the following types of income generation transactions if, as a result of and after giving effect to the transactions, the aggregate statement value of the fixed income assets that are subject to call or which generate the cash flows for payments under the caps or floors, plus the face value of fixed income securities underlying a derivative instrument subject to call, plus the amount of the purchase obligations under the puts, does not exceed 10 percent of its admitted assets:*

1. Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms before the end of the noncallable period or derivative instruments based on fixed income securities;

2. Sales of covered call options on equity securities, if the insurer holds in its portfolio, or can immediately acquire through the exercise of options, warrants or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold;

3. Sales of covered puts on investments that the insurer is allowed to acquire pursuant to this chapter, if the insurer has escrowed, or entered into a custodian agreement segregating, cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold; or

4. Sales of covered caps or floors, if the insurer holds in its portfolio the investments generating the cash flow to make the required payments under the caps or floors during the complete term that the cap or floor is outstanding.

Sec. 187. *An insurer shall include all counterparty exposure amounts in determining compliance with the limitations of sections 160, 161 and 162 of this act.*

Sec. 188. *In accordance with the regulations adopted pursuant to section 158 of this act, the Commissioner may approve additional transactions involving the use of derivative instruments in excess of the limits of section 185 of this act for other risk-management purposes, but replication transactions must not be allowed for other than risk-management purposes.*

Sec. 189. *A life insurer may lend to a policyholder on the security of the cash surrender value of the policyholder's policy a sum not exceeding the legal reserve that the insurer is required to maintain on the policy.*

Sec. 190. *Solely for the purpose of acquiring investments that exceed the quantitative limitations of sections 160 to 183, inclusive, of this act, an insurer may acquire in accordance with this section an investment, or engage in investment practices described in section 178 of this act, but an insurer shall not acquire an investment or engage in investment practices described in section 178 of this act in accordance with this section if, as a result of and after giving effect to the transaction:*

1. The aggregate amount of investments held by the insurer would exceed 3 percent of its admitted assets; or

2. The aggregate amount of investments as to one limitation in sections 160 to 183, inclusive, of this act held by the insurer would exceed 1 percent of its admitted assets.

Sec. 191. *1. In addition to the authority provided in section 190 of this act, an insurer may acquire in accordance with this section an investment of any kind, or engage in investment practices described in section 178 of this act that are not specifically prohibited by the provisions of this chapter, without regard to the categories, conditions, standards or other limitations of sections 160 to 183, inclusive, of this act if, as a result of and after giving effect to the transaction, the aggregate amount of investments held would not exceed the lesser of:*

(a) Ten percent of its admitted assets; or

(b) Seventy-five percent of its capital and surplus.

2. An insurer shall not acquire any investment or engage in any investment practice in accordance with this section if, as a result of and after giving effect to the transaction, the aggregate amount of all investments in

any one person held by the insurer would exceed 3 percent of its admitted assets.

Sec. 192. *In addition to the investments acquired as described in sections 190 and 191 of this act, an insurer may acquire in accordance with this section an investment of any kind, or engage in investment practices described in section 178 of this act, that are not specifically prohibited by the provisions of this chapter, without regard to any limitations of sections 160 to 183, inclusive, of this act if:*

1. The Commissioner grants prior approval;

2. The insurer demonstrates that its investments are being made in a prudent manner and that the additional amounts will be invested in a prudent manner; and

3. As a result of and after giving effect to the transaction the aggregate amount of investments held by the insurer is not greater than:

(a) Twenty-five percent of its capital and surplus; or

(b) One hundred percent of capital and surplus less 10 percent of its admitted assets.

Sec. 193. *An investment prohibited by section 154 of this act, not allowed by sections 184 to 188, inclusive, of this act or additional derivative instruments acquired under sections 184 to 188, inclusive, of this act must not be acquired pursuant to sections 190 to 193, inclusive, of this act.*

Sec. 194. *Sections 194 to 230, inclusive, of this act apply to the investments and investment practices of property and casualty, financial guaranty and mortgage guarantee insurers.*

Sec. 195. *Subject to all other limitations and requirements of this chapter, a property and casualty, financial guaranty, mortgage guaranty or accident and health insurer shall maintain an amount not less than 100 percent of adjusted loss reserves and loss adjustment expense reserves, 100 percent of adjusted unearned premium reserves and 100 percent of statutorily required policy and contract reserves in:*

1. Cash and cash equivalents;

2. High and medium grade investments that qualify pursuant to sections 203 and 204 of this act;

3. Equity interests that qualify pursuant to sections 205 to 208, inclusive, of this act and which are traded on a qualified exchange;

4. Investments of the type set forth in sections 219 to 223, inclusive, of this act, if the investments are rated in the highest generic rating category by a nationally recognized statistical rating organization recognized by the SVO for rating foreign jurisdictions and if any foreign currency exposure is effectively hedged through the maturity date of the investments;

5. Qualifying investments of the type set forth in subsections 2, 3 and 4 that are acquired pursuant to sections 229 and 230 of this act;

6. Interest and dividends receivable on qualifying investments of the type set forth in subsections 1 to 5, inclusive; or

7. Reinsurance recoverable on paid losses.

Sec. 196. *1. For the purposes of determining the amount of assets to be maintained in accordance with this section, the calculation of adjusted loss reserves and loss adjustment expense reserves, adjusted unearned premium reserves and statutorily required policy and contract reserves must be based on the amounts reported as of the most recent annual or quarterly statement date.*

2. Adjusted loss reserves and loss adjustment expense reserves must be, for each individual line of business, equal to the sum derived by multiplying the amount obtained pursuant to paragraph (a) by the amount obtained pursuant to paragraph (b), and subtracting from the product obtained by way of that multiplication the amount obtained pursuant to paragraph (c), as follows:

(a) The result of each amount reported by the insurer as losses and loss adjustment expenses unpaid for each accident year for each individual line of business.

(b) The discount factor that is applicable to the line of business and accident year published by the Internal Revenue Service in accordance with the provisions of section 846 of the Internal Revenue Code, 26 U.S.C. § 846, as amended, for the calendar year that corresponds to the most recent annual statement of the insurer.

(c) Accrued retrospective premiums discounted by an average discount factor. The discount factor used in this paragraph must be calculated by dividing the losses and loss adjustment expenses unpaid after discounting by loss and loss adjustment expense reserves before discounting the amount obtained pursuant to paragraph (a).

3. For purposes of the calculations required pursuant to subsection 2, the losses and loss adjustment expenses unpaid must be determined net of anticipated salvage and subrogation, and gross of any discount for the time value of money or tabular discount.

4. Adjusted unearned premium reserves must be equal to the sum derived by subtracting the amount obtained pursuant to paragraph (b) from the amount obtained pursuant to paragraph (a), as follows:

(a) The amount reported by the insurer as unearned premium reserves.

(b) The admitted asset amounts reported by the insurer as:

(1) Premiums in and agent's balances in the course of collection, accident and health premiums due and unpaid and uncollected premiums for accident and health premiums;

(2) Premiums, agent's balances and installments booked but deferred and not yet due; and

(3) Bills receivable, taken for premium.

5. Statutorily required policy and contract reserves also must include, without limitation, any required contingency reserves, including, without limitation, in the case of a mortgage guaranty insurer, the amounts required by NRS 681B.100.

Sec. 197. *A property and casualty, financial guaranty, mortgage guaranty or accident and health insurer shall supplement its annual statement with a reconciliation and summary of its assets and reserve requirements as required in sections 195 and 196 of this act. A reconciliation and summary showing that an insurer's assets as required in sections 195 and 196 of this act are greater than or equal to its undiscounted reserves referred to in sections 195 and 196 of this act is sufficient to satisfy this requirement. Upon prior notification, the Commissioner may require an insurer to submit such a reconciliation and summary with any quarterly statement filed during the calendar year.*

Sec. 198. *If a property and casualty, financial guaranty, mortgage guaranty or accident and health insurer's assets and reserves do not comply with sections 195 and 196 of this act, the insurer shall notify the Commissioner immediately of the amount by which the reserve requirements exceed the annual statement value of the qualifying assets, explain why the deficiency exists and, within 30 days after the date of the notice, propose a plan of action to remedy the deficiency.*

Sec. 199. *1. If the Commissioner determines that an insurer is not in compliance with sections 195 and 196 of this act, the Commissioner shall require the insurer to eliminate the condition causing the noncompliance within a specified time after the date on which the notice of the Commissioner's requirements is mailed or delivered to the insurer.*

2. If an insurer fails to comply with the Commissioner's requirements that are imposed pursuant to subsection 1, the insurer is deemed to be in hazardous financial condition and the Commissioner shall take one or more of the actions authorized by law as to insurers in hazardous financial condition.

Sec. 200. *1. Except as otherwise specified in this chapter, an insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment in accordance with the provisions of this chapter if, as a result of and after giving effect to the investment, the insurer would hold more than 5 percent of its admitted assets in investments of all kinds issued, assumed, accepted, insured or guaranteed by a single person.*

2. The limitation in subsection 1 does not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization.

3. Asset-backed securities are not subject to the limitation in subsection 1. However, an insurer shall not acquire an asset-backed security if, as a result of and after giving effect to the investment, the aggregate amount of asset-backed securities secured by, or evidencing an interest in, a single asset or single pool of assets held by a trust or other business entity held by the insurer would exceed 5 percent of its admitted assets.

Sec. 201. *1. An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment in accordance with the provisions of sections 203, 209 to 213, inclusive, or 219 to 223, inclusive, of this act or*

counterparty exposure in accordance with the provisions of section 227 of this act if, as a result of and after giving effect to the investment:

(a) The aggregate amount of all medium and lower grade investments held by the insurer would exceed 20 percent of its admitted assets;

(b) The aggregate amount of lower grade investments held by the insurer would exceed 10 percent of its admitted assets;

(c) The aggregate amount of investments rated 5 or 6 by the SVO held by the insurer would exceed 5 percent of its admitted assets;

(d) The aggregate amount of investments rated 6 by the SVO held by the insurer would exceed 1 percent of its admitted assets; or

(e) The aggregate amount of medium and lower grade investments held by the insurer that receive as cash income less than the equivalent yield for United States Treasury issues with a comparative average life, would exceed 1 percent of its admitted assets.

2. An insurer shall not acquire, directly or indirectly through an investment subsidiary, an investment in accordance with the provisions of sections 203, 209 to 213, inclusive, or 219 to 223, inclusive, of this act or counterparty exposure in accordance with the provisions of section 227 of this act if, as a result of and after giving effect to the investment:

(a) The aggregate amount of medium and lower grade investments issued, assumed, guaranteed, accepted or insured by any one person or, as to asset-backed securities by or evidencing an interest in a single asset or pool of assets, held by the insurer, would exceed 1 percent of its admitted assets; or

(b) The aggregate amount of lower grade investments issued, assumed, guaranteed, accepted or insured by any one person or, as to asset-backed securities by or evidencing an interest in a single asset or pool of assets, held by the insurer, would exceed 0.5 percent of its admitted assets.

3. If an insurer attains or exceeds the limit of any one rating category referred to in this section, the insurer must not be precluded from acquiring investments in other rating categories subject to the specific and multicategory limits applicable to those investments.

Sec. 202. *1. An insurer shall not acquire, directly or indirectly through an investment subsidiary, any Canadian investments authorized by the provisions of this chapter if, as a result of and after giving effect to the investment, the aggregate amount of these investments held by the insurer would exceed 40 percent of its admitted assets, or if the aggregate amount of Canadian investments not acquired in accordance with paragraph (c) or (d) of subsection 1 of section 203 of this act held by the insurer would exceed 25 percent of its admitted assets.*

2. As to an insurer that is authorized to do business in Canada or that has outstanding insurance, annuity or reinsurance contracts on lives or risks resident or located in Canada and denominated in Canadian currency, the limitations in subsection 1 must be increased by the greater of:

(a) The amount the insurer is required by Canadian law to invest in Canada or to be denominated in Canadian currency; or

(b) One hundred twenty-five percent of the amount of its reserves and other obligations under contracts on risks resident or located in Canada.

Sec. 203. *1. Subject to the limitations of section 201 of this act, but not to the limitations of section 200 of this act, an insurer may acquire rated credit instruments issued, assumed, guaranteed or insured by:*

(a) The United States;

(b) A government-sponsored enterprise of the United States, if the instruments of the government-sponsored enterprise are assumed, guaranteed or insured by the United States or are otherwise backed or supported by the full faith and credit of the United States;

(c) Canada; or

(d) A government-sponsored enterprise of Canada, if the instruments of the government-sponsored enterprise are assumed, guaranteed or insured by Canada or are otherwise backed or supported by the full faith and credit of Canada.

2. An insurer shall not acquire an instrument in accordance with paragraph (c) or (d) of subsection 1 if, as a result of and after giving effect to the investment, the aggregate amount of investments held by the insurer in accordance with paragraph (c) or (d) of subsection 1 would exceed 40 percent of its admitted assets.

3. Subject to the limitations of section 201 of this act, but not to the limitations of section 200 of this act, an insurer may acquire rated credit instruments, excluding asset-backed securities:

(a) Issued by a government money market mutual fund, a class one money market mutual fund or a class one bond mutual fund;

(b) Issued, assumed, guaranteed or insured by a government-sponsored enterprise of the United States other than those eligible in accordance with subsection 1;

(c) Issued, assumed, guaranteed or insured by a state, if the instruments are general obligations of the state; or

(d) Issued by a multilateral development bank.

4. An insurer shall not acquire an instrument of any one fund, any one enterprise or entity, or any one state as described in subsection 3 if, as a result of and after giving effect to the investment, the aggregate amount of investments held in any one fund, enterprise or entity or state would exceed 10 percent of the insurer's admitted assets.

5. Subject to the limitations of sections 200, 201 and 202 of this act, an insurer may acquire preferred stocks that are not foreign investments and which meet the requirements of rated credit instruments if, as a result of and after giving effect to the investments:

(a) The aggregate amount of preferred stocks held by the insurer in accordance with this section does not exceed 20 percent of the insurer's admitted assets; and

(b) The aggregate amount of preferred stocks held by the insurer in accordance with this section which are not sinking fund stocks or rated P1 or P2 by the SVO does not exceed 10 percent of the insurer's admitted assets.

6. Subject to the limitations of sections 200, 201 and 202 of this act, in addition to those investments eligible pursuant to subsections 1 to 5, inclusive, an insurer may acquire rated credit instruments that are not foreign investments.

7. An insurer shall not acquire special rated credit instruments as described in this section if, as a result of and after giving effect to the investment, the aggregate amount of special rated credit instruments held by the insurer would exceed 5 percent of the insurer's admitted assets.

Sec. 204. *1. An insurer may acquire investments in investment pools that invest only in:*

(a) Obligations that are rated 1 or 2 by the SVO or have an equivalent of an SVO 1 or 2 rating, or, in the absence of a 1 or 2 rating or equivalent rating, the issuer has outstanding obligations with an SVO 1 or 2 equivalent rating, by a nationally recognized statistical rating organization recognized by the SVO, and have:

(1) A remaining maturity of 397 days or less or a put option that entitles the holder to receive the principal amount of the obligation with the ability to exercise the put option through maturity at specified intervals not exceeding 397 days; or

(2) A remaining maturity of less than or equal to 3 years and a floating interest rate that resets not less frequently than quarterly on the basis of a current short-term index and is not subject to a maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes. For the purpose of this subparagraph, qualifying short-term indexes include, without limitation, the federal funds rate, prime rate, treasury bills rates, the London Interbank Offered Rate or commercial paper rates.

(b) Government money market mutual funds or class one money market mutual funds.

(c) Securities lending, repurchase and reverse repurchase transactions that meet all the requirements of section 218 of this act, except the quantitative limitations of subsection 4 of that section.

(d) Investments which an insurer may acquire pursuant to this chapter if the insurer's proportionate interest in the amount invested in these investments does not exceed the applicable limits of this chapter.

2. For an investment in an investment pool to be qualified pursuant to this chapter, the investment pool must not:

(a) Acquire securities issued, assumed, guaranteed or insured by the insurer or an affiliate of the insurer;

(b) Borrow or incur any indebtedness for borrowed money, except for securities lending and reverse repurchase transactions that meet the

requirements of section 218 of this act except the quantitative limitations of subsection 4 of that section; or

(c) Permit the aggregate value of securities loaned or sold to, purchased from or invested in any one business entity in accordance with this section to exceed 10 percent of the total assets of the investment pool.

3. The limitations of section 200 of this act do not apply to an insurer's investment in an investment pool, however an insurer shall not acquire an investment in an investment pool in accordance with this section if, as a result of and after giving effect to the investment, the aggregate amount of investments held by the insurer in accordance with this section:

(a) In any one investment pool would exceed 10 percent of its admitted assets;

(b) In all investment pools investing in investments permitted in accordance with paragraph (d) of subsection 1 would exceed 25 percent of its admitted assets; or

(c) In all investment pools would exceed 40 percent of its admitted assets.

4. For an investment in an investment pool to be qualified pursuant to this chapter, the manager of the investment pool must:

(a) Be organized in accordance with the laws of the United States or a state and designated as the pool manager in a pooling agreement;

(b) Be the insurer, an affiliated insurer or a business entity affiliated with the insurer, a qualified bank, a business entity registered in accordance with the provisions of the Investment Advisers Act of 1940, 15 U.S.C. §§ 80a-1 et seq., as amended, or, in the case of a United States branch of an alien insurer, its United States manager or affiliates or subsidiaries of its United States manager;

(c) Compile and maintain detailed accounting records setting forth:

(1) The cash receipts and disbursements reflecting each participant's proportionate investments in the investment pool;

(2) A complete description of all underlying assets of the investment pool, including, without limitation, amount, interest rate, maturity date, if any, and other appropriate designations; and

(3) Other records which, on a daily basis, allow third parties to verify each participant's investment in the investment pool; and

(d) Maintain the assets of the investment pool in one or more accounts, in the name of or on behalf of the investment pool, in accordance with a custody agreement with a qualified bank. The custody agreement must:

(1) State and recognize the claims and rights of each participant;

(2) Acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its investments in the investment pool; and

(3) Contain an agreement that the underlying assets of the investment pool must not be commingled with the general assets of the custodian qualified bank or any other person.

5. The pooling agreement for each investment pool must be in writing and must provide that:

(a) An insurer and its affiliated insurers or, in the case of an investment pool investing solely in investments allowed in accordance with paragraph (a) of subsection 1, the insurer and its subsidiaries, affiliates or any pension or profit-sharing plan of the insurer, its subsidiaries and affiliates or, in the case of a United States branch of an alien insurer, affiliates or subsidiaries of its United States manager, shall at all times hold 100 percent of the interests in the investment pool.

(b) The underlying assets of the investment pool must not be commingled with the general assets of the pool manager or any other person.

(c) In proportion to the aggregate amount of each pool participant's interest in the investment pool:

(1) Each participant owns an undivided interest in the underlying assets of the investment pool; and

(2) The underlying assets of the investment pool are held solely for the benefit of each participant.

(d) A participant, or in the event of the participant's insolvency, bankruptcy or receivership, its trustee, receiver or other successor-in-interest, may withdraw all or any portion of its investment from the investment pool in accordance with the terms of the pooling agreement.

(e) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlements of funds shall occur within a reasonable and customary period thereafter not to exceed 5 business days. Distributions in accordance with this paragraph must be calculated in each case net of all applicable fees and expenses of the investment pool. The pooling agreement must provide that the pool manager shall distribute to a participant at the discretion of the pool manager:

(1) In cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

(2) In kind, a pro rata share of each underlying asset; or

(3) In a combination of cash and in-kind distributions, a pro rata share in each underlying asset.

(f) The pool manager shall make the records of the investment pool available for inspection by the Commissioner.

Sec. 205. *Subject to the limitations of sections 200, 201 and 202 of this act, an insurer may acquire equity interests in business entities organized in accordance with the laws of any domestic jurisdiction.*

Sec. 206. *An insurer shall not acquire an investment in accordance with the provisions of sections 205 to 208, inclusive, of this act if, as a result of and after giving effect to the investment, the aggregate amount of investments held by the insurer in accordance with the provisions of those sections would exceed the greater of 25 percent of the insurer's admitted assets or 100 percent of the insurer's surplus as regards policyholders.*

Sec. 207. *An insurer shall not acquire in accordance with the provisions of sections 205 to 208, inclusive, of this act any investments that the insurer may acquire in accordance with the provisions of sections 214 to 217, inclusive, of this act.*

Sec. 208. *An insurer shall not short sell equity investments unless the insurer covers the short sale by owning the equity investment or an unrestricted right to the equity instrument exercisable within 6 months after the short sale.*

Sec. 209. *1. Subject to the limitations of sections 200, 201 and 202 of this act, an insurer may acquire tangible personal property or equity interests therein located or used wholly or in part within a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by paragraph (d) of subsection 1 of section 154 of this act, joint ventures, stock of an investment subsidiary or membership interests in a limited-liability company, trust certificates or other similar instruments.*

2. Investments acquired as described in subsection 1 are eligible only if:

(a) The property is subject to a lease or other agreement with a person whose rated credit instruments in the amount of the purchase price of the personal property the insurer could acquire in accordance with the provisions of section 203 of this act; and

(b) The lease or other agreement provides the insurer the right to receive rental, purchase or other fixed payments for the use or purchase of the property, and the aggregate value of the payments, together with the estimated residual value of the property at the end of its useful life and the estimated tax benefits to the insurer resulting from ownership of the property, must be adequate to return the cost of the insurer's investment in the property, plus a return deemed adequate by the insurer.

Sec. 210. *The insurer shall compute the amount of each investment entered into in accordance with the provisions of sections 209 to 213, inclusive, of this act on the basis of the out-of-pocket purchase price and applicable related expenses paid by the insurer for the investment, net of each borrowing made to finance the purchase price and expenses, to the extent the borrowing is without recourse to the insurer.*

Sec. 211. *An insurer shall not acquire an investment in accordance with the provisions of sections 209 to 213, inclusive, of this act if, as a result of and after giving effect to the investment, the aggregate amount of all investments held by the insurer in accordance with the provisions of sections 209 to 213, inclusive, of this act would exceed:*

1. Two percent of its admitted assets; or

2. One half of one percent of its admitted assets as to any single item of tangible personal property.

Sec. 212. *For the purposes of determining compliance with the limitations of sections 200, 201 and 202 of this act, investments acquired by an insurer in accordance with the provisions of sections 209 to 213,*

inclusive, of this act must be aggregated with those acquired in accordance with the provisions of section 203 of this act, and each lessee of the property in accordance with a lease referred to in sections 209 to 213, inclusive, of this act shall be deemed the issuer of an obligation in the amount of the investment of the insurer in the property determined as provided in section 210 of this act.

Sec. 213. *Nothing in sections 209 to 213, inclusive, of this act applies to tangible personal property lease arrangements between an insurer and its subsidiaries and affiliates in accordance with a cost-sharing arrangement or agreement permitted in accordance with the provisions of chapter 692C of NRS.*

Sec. 214. *1. Subject to the limitations of sections 200, 201 and 202 of this act, an insurer may acquire, either directly, or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by paragraph (d) of subsection 1 of section 154 of this act, joint ventures, stock of an investment subsidiary or membership interests in a limited-liability company, trust certificates, or other similar instruments, obligations secured by mortgages on real estate situated within a domestic jurisdiction. A mortgage loan which is secured by other than a first lien must not be acquired unless the insurer is the holder of the first lien.*

2. The obligations held by the insurer and any obligations with an equal lien priority must not, at the time of acquisition of the obligation, exceed:

(a) Ninety percent of the fair market value of the real estate, if the mortgage loan is secured by a purchase money mortgage or like security received by the insurer upon disposition of the real estate.

(b) Eighty percent of the fair market value of the real estate, if the mortgage loan requires immediate scheduled payment in periodic installments of principal and interest, has an amortization period of 30 years or less and periodic payments made not less frequently than annually. Each periodic payment must be sufficient to ensure that at all times the outstanding principal balance of the mortgage loan is not greater than the outstanding principal balance that would be outstanding under a mortgage loan with the same original principal balance, the same interest rate and requiring equal payments of principal and interest with the same frequency over the same amortization period. Mortgage loans allowed in accordance with this section are allowed notwithstanding the fact that they provide for a payment of the principal balance before the end of the period of amortization of the loan. For residential mortgage loans, the 80-percent limitation may be increased to 97 percent if acceptable private mortgage insurance has been obtained.

(c) Seventy-five percent of the fair market value of the real estate for mortgage loans that do not meet the requirements of paragraph (a) or (b).

3. For the purposes of subsection 2, the amount of an obligation required to be included in the calculation of the loan-to-value ratio may be reduced to

the extent the obligation is insured by the Federal Housing Administration or guaranteed by the Administrator of Veterans Affairs, or their successors.

4. A mortgage loan that is held by an insurer pursuant to section 141 of this act or acquired in accordance with the provisions of sections 214 to 217, inclusive, of this act and is restructured in a manner that meets the requirements of a restructured mortgage loan in conformance with the Accounting Practices and Procedures Manual adopted by the NAIC, will continue to qualify as a mortgage loan in accordance with the provisions of this chapter.

5. Subject to the limitations of sections 200, 201 and 202 of this act, credit lease transactions that do not qualify for investment pursuant to section 203 of this act are exempt from the provisions of subsections 1, 2 and 3 if they meet the following criteria:

(a) The loan amortizes over the initial fixed lease term at least in an amount sufficient so that the loan balance at the end of the lease term does not exceed the original appraised value of the real estate;

(b) The lease payments cover or exceed the total debt service over the life of the loan;

(c) A tenant or its affiliated entity whose rated credit instruments have an SVO 1 or 2 rating or a comparable rating from a nationally recognized statistical rating organization recognized by the SVO, has a full faith and credit obligation to make the lease payments;

(d) The insurer holds or is the beneficial holder of a first lien mortgage on the real estate;

(e) The expenses of the real estate are passed through to the tenant excluding exterior, structural, parking and heating, ventilation and air conditioning replacement expenses, unless annual escrow contributions, from cash flows derived from the lease payments, cover the expense shortfall; and

(f) There is a perfected assignment of the rents due pursuant to the lease to, or for the benefit of, the insurer.

Sec. 215. *1. An insurer may acquire, manage and dispose of real estate situated in a domestic jurisdiction either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by paragraph (d) of subsection 1 of section 154 of this act, joint ventures, stock of an investment subsidiary or membership interests in a limited-liability company, trust certificates or other similar interests. The real estate must be income producing or intended for improvement or development for investment purposes under an existing program, in which case the real estate shall be deemed to be income producing.*

2. The real estate may be subject to mortgages, liens or other encumbrances, the amount of which must, to the extent that the obligations secured by the mortgages, liens or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the

real estate for purposes of determining compliance with subsections 2 and 3 of section 217 of this act.

Sec. 216. *1. An insurer may acquire, manage and dispose of real estate for the convenient accommodation of the insurer's, and its affiliates, business operations, including home office, branch office and filed office operations.*

2. Real estate acquired as described in this section may include excess space for rent to others, if the excess space, valued at its fair market value, would otherwise be an allowed investment in accordance with the provisions of section 215 of this act and is so qualified by the insurer.

3. The real estate acquired as described in this section may be subject to one or more mortgages, liens or other encumbrances, the amount of which must, to the extent that the obligations secured by the mortgages, liens or encumbrances are without recourse to the insurer, be deducted from the amount of the investment of the insurer in the real estate for purposes of determining compliance with subsection 4 of section 217 of this act.

4. For purposes of this section, business operations must not include that portion of real estate used for the direct provision of health care services by an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least 95 percent of total premium considerations or total statutory required reserves, respectively. An insurer may acquire real estate used for these purposes under section 215 of this act.

Sec. 217. *1. An insurer shall not acquire an investment in accordance with the provisions of section 214 of this act if, as a result of and after giving effect to the investment, the aggregate amount of all investments held by the insurer pursuant to that section would exceed:*

(a) One percent of its admitted assets in mortgage loans covering any one secured location;

(b) One-quarter of one percent of its admitted assets in construction loans covering any one secured location; or

(c) One percent of its admitted assets in construction loans in the aggregate.

2. An insurer shall not acquire an investment under section 215 of this act if, as a result of and after giving effect to the investment and any outstanding guarantees made by the insurer in connection with the investment, the aggregate amount of investments held by the insurer under section 215 of this act plus the guarantees outstanding would exceed:

(a) One percent of its admitted assets in any one parcel or group of contiguous parcels of real estate, except that this limitation does not apply to that portion of real estate used for the direct provision of health care services by an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least 95 percent of total premium considerations or total statutory required reserves, respectively, including, without limitation, hospitals, medical clinics, medical professional buildings or other health facilities used for the purpose of providing health services; or

(b) The lesser of 10 percent of its admitted assets or 40 percent of its surplus as regards policyholders in the aggregate, except for an insurer whose insurance premiums and required statutory reserves for accident and health insurance constitute at least 95 percent of total premium considerations or total statutory required reserves, respectively, this limitation must be increased to 15 percent of its admitted assets in the aggregate.

3. An insurer shall not acquire an investment pursuant to sections 214 and 215 of this act if, as a result of and after giving effect to the investment and any guarantees it has made in connection with the investment, the aggregate amount of all investments held by the insurer in accordance with the provisions of those sections plus the guarantees outstanding would exceed 25 percent of the insurer's admitted assets.

4. The limitations of sections 200, 201 and 202 of this act do not apply to an insurer's acquisition of real estate under section 216 of this act. An insurer shall not acquire real estate under section 216 of this act if, as a result of and after giving effect to the acquisition, the aggregate amount of real estate held by the insurer in accordance with that section would exceed 10 percent of its admitted assets. With the permission of the Commissioner, additional amounts of real estate may be acquired under section 216 of this act.

Sec. 218. *An insurer may enter into securities lending, repurchase, reverse repurchase and dollar roll transactions with business entities, subject to the following requirements:*

1. The insurer's board of directors shall adopt a written plan that is consistent with the requirements of the written plan in section 148 of this act which specifies the guidelines and objectives to be followed, including, without limitation:

(a) A description of how cash received will be invested or used for general corporate purposes of the insurer;

(b) Operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from reverse repurchase transactions may be used in the ordinary course of business and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction; and

(c) The extent to which the insurer may engage in these transactions.

2. The insurer shall enter into a written agreement for all transactions authorized in this section other than dollar roll transactions. The written agreement must require that each transaction terminate not more than 1 year after its inception or upon the earlier demand of the insurer. The agreement must be with the business entity counterparty, but for securities lending transactions, the agreement may be with an agent acting on behalf of the insurer, if the agent is a qualified business entity and if the agreement:

(a) Requires the agent to enter into separate agreements with each counterparty that are consistent with the requirements of this section; and

(b) Prohibits securities lending transactions under the agreement with the agent or its affiliates.

3. Cash received in a transaction entered into as described in this section must be invested in accordance with the provisions of this chapter and in a manner that recognizes the liquidity needs of the transaction or used by the insurer for its general corporate purposes. For so long as the transaction remains outstanding, the insurer, its agent or custodian shall maintain, as to acceptable collateral received in a transaction entered into in accordance with this section, either physically or through the book entry systems of the Federal Reserve, the Depository Trust Company, the Participants Trust Company or any other securities depositories approved by the Commissioner:

(a) Possession of the acceptable collateral;

(b) A perfected security interest in the acceptable collateral; or

(c) In the case of a jurisdiction outside of the United States, title to, or rights of a secured creditor to, the acceptable collateral.

4. The limitations of sections 200, 201, 202 and 219 to 223, inclusive, of this act do not apply to the business entity counterparty exposure created by transactions entered into under this section. For purposes of calculations made to determine compliance with this subsection, no effect will be given to the insurer's future obligation to resell securities, in the case of a repurchase transaction, or to repurchase securities, in the case of a reverse repurchase transaction. An insurer shall not enter into a transaction under this section if, as a result of and after giving effect to the transaction:

(a) The aggregate amount of securities loaned, sold to or purchased from any one business entity counterparty under this section would exceed 5 percent of its admitted assets. In calculating the amount sold to or purchased from a business entity counterparty under repurchase or reverse repurchase transactions, effect may be given to netting provisions contained within a master written agreement.

(b) The aggregate amount of all securities loaned, sold to or purchased from all business entities under this section would exceed 40 percent of its admitted assets.

➥ *The limitation in this subsection does not apply to reverse repurchase transactions for so long as the borrowing is used to meet operational liquidity requirements resulting from an officially declared catastrophe and subject to a plan approved by the Commissioner.*

5. In a securities lending transaction, the insurer shall receive acceptable collateral having a market value on the transaction date, equal to 102 percent or more of the market value of the securities loaned by the insurer in the transaction on that date. If at any time the market value of the acceptable collateral is less than the market value of the loaned securities, the business entity counterparty is obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all

acceptable collateral held in connection with the transaction, equals 102 percent or more of the market value of the loaned securities.

6. In a reverse repurchase transaction, other than a dollar roll transaction, the insurer shall receive acceptable collateral having a market value on the transaction date equal to 95 percent or more of the market value of the securities transferred by the insurer in the transaction on that date. If at any time the market value of the acceptable collateral is less than 95 percent of the market value of the securities so transferred, the business entity counterparty is obligated to deliver additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral held in connection with the transaction, equals 95 percent or more of the market value of the transferred securities.

7. In a dollar roll transaction, the insurer shall receive cash in an amount equal to at least the market value of the securities transferred by the insurer in the transaction on the transaction date.

8. In a repurchase transaction, the insurer shall receive as acceptable collateral transferred securities having a market value equal to 102 percent or more of the purchase price paid by the insurer for the securities. If at any time the market value of the acceptable collateral is less than 100 percent of the purchase price paid by the insurer, the business entity counterparty is obligated to provide additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral held in connection with the transaction, equals 102 percent or more of the purchase price. Securities acquired by an insurer in a repurchase transaction must not be sold in a reverse repurchase transaction, loaned in a securities lending transaction or otherwise pledged.

9. To constitute acceptable collateral for the purposes of this section, a letter of credit must have an expiration date beyond the term of the subject transaction.

Sec. 219. *Subject to the limitations of sections 200, 201 and 202 of this act, an insurer may acquire foreign investments, or engage in investment practices with persons of, or in, foreign jurisdictions, of substantially the same types as those that an insurer is allowed to acquire pursuant to this chapter, other than of the type allowed under section 204 of this act if, as a result of and after giving effect to the investment:*

1. The aggregate amount of foreign investments held by the insurer in accordance with this section does not exceed 20 percent of its admitted assets; and

2. The aggregate amount of foreign investments held by the insurer in accordance with this section in a single foreign jurisdiction does not exceed 10 percent of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or 5 percent of its admitted assets as to any other foreign jurisdiction.

Sec. 220. *1. Subject to the limitations of sections 200, 201 and 202 of this act, an insurer may acquire investments, or engage in investment*

practices denominated in foreign currencies, whether or not they are foreign investments acquired as described in section 219 of this act, or additional foreign currency exposure as a result of the termination or expiration of a hedging transaction with respect to investments denominated in a foreign currency if:

(a) The aggregate amount of investments held by the insurer in accordance with this section denominated in foreign currencies does not exceed 15 percent of its admitted assets; and

(b) The aggregate amount of investments held by the insurer in accordance with this section denominated in the foreign currency of a single foreign jurisdiction does not exceed 10 percent of its admitted assets as to a foreign jurisdiction that has a sovereign debt rating of SVO 1 or 5 percent of its admitted assets as to any other foreign jurisdiction.

2. An investment must not be considered denominated in a foreign currency if the acquiring insurer enters into one or more contracts in transactions allowed under sections 224 to 228, inclusive, of this act and the business entity counterparty agrees, in accordance with the contract or contracts, to exchange all payments made on the foreign currency denominated investment for United States currency at a rate which effectively insulates the investment cash flows against future changes in currency exchange rates during the period the contract or contracts are in effect.

Sec. 221. *In addition to investments allowed under sections 219 and 220 of this act, an insurer that is authorized to do business in a foreign jurisdiction, and that has outstanding insurance, annuity or reinsurance contracts on lives or risks resident or located in that foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction, subject to the limitations of sections 200, 201 and 202 of this act. Investments made in accordance with this section in obligations of foreign governments, their political subdivisions and government-sponsored enterprises are not subject to the limitations of sections 200, 201 and 202 of this act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer in accordance with this section must not exceed the greater of:*

1. The amount the insurer is required by law to invest in the foreign jurisdiction; or

2. One hundred twenty-five percent of the amount if the insurer's reserves, net of reinsurance and other obligations under the contracts.

Sec. 222. *In addition to investments allowed under sections 219 and 220 of this act, an insurer that is not authorized to do business in a foreign jurisdiction but which has outstanding insurance, annuity or reinsurance contracts on lives or risks resident or located in a foreign jurisdiction and denominated in foreign currency of that jurisdiction, may acquire foreign investments respecting that foreign jurisdiction, and may acquire investments denominated in the currency of that jurisdiction subject to the limitations set*

forth in sections 200, 201 and 202 of this act. Investments made in accordance with this section in obligations of foreign governments, their political subdivisions and government-sponsored enterprises are not subject to the limitations of sections 200, 201 and 202 of this act if those investments carry an SVO rating of 1 or 2. The aggregate amount of investments acquired by the insurer in accordance with this section must not exceed 105 percent of the amount of the insurer's reserves, net of reinsurance, and other obligations under the contracts on risks resident or located in the foreign jurisdiction.

Sec. 223. *Investments acquired in conformance with sections 219 to 223, inclusive, of this act must be aggregated with investments of the same types made under this chapter, and in a similar manner, for purposes of determining compliance with the limitations, if any, contained in this chapter. Investments in obligations of foreign governments, their political subdivisions and government-sponsored enterprises of these persons, except for those exempted in accordance with the provisions of sections 221 and 222 of this act, are subject to the limitations of sections 200, 201 and 202 of this act.*

Sec. 224. *An insurer may, directly or indirectly through an investment subsidiary, engage in derivative transactions as described in sections 224 to 228, inclusive, of this act pursuant to the following conditions:*

1. An insurer may use derivative instruments under sections 224 to 228, inclusive, of this act to engage in hedging transactions and certain income generation transactions, as these terms may be further defined in regulations adopted by the Commissioner pursuant to section 158 of this act; and

2. An insurer must be able to demonstrate to the Commissioner the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of transactions through cash flow testing or other appropriate analyses.

Sec. 225. *An insurer may enter into hedging transactions under sections 224 to 228, inclusive, of this act if, as a result of and after giving effect to the transaction:*

1. The aggregate statement value of options, caps, floors and warrants not attached to another financial instrument purchased and used in hedging transactions does not exceed 7.5 percent of its admitted assets;

2. The aggregate statement value of options, caps and floors written in hedging transactions does not exceed 3 percent of its admitted assets; and

3. The aggregate potential exposure of collars, swaps, forwards and futures used in hedging transactions does not exceed 6.5 percent of its admitted assets.

Sec. 226. *An insurer may only enter into the following types of income generation transactions if, as a result of and after giving effect to the transactions, the aggregate statement value of the fixed income assets that are subject to call plus the face value of fixed income securities underlying a*

derivative instrument subject to call, plus the amount of the purchase obligations under the puts, does not exceed 10 percent of its admitted assets:

1. Sales of covered call options on noncallable fixed income securities, callable fixed income securities if the option expires by its terms before the end of the noncallable period or derivative instruments based on fixed income securities;

2. Sales of covered call options on equity securities, if the insurer holds in its portfolio, or can immediately acquire through the exercise of options, warrants or conversion rights already owned, the equity securities subject to call during the complete term of the call option sold; or

3. Sales of covered puts on investments that the insurer is allowed to acquire pursuant to this chapter if the insurer has escrowed, or entered into a custodian agreement segregating, cash or cash equivalents with a market value equal to the amount of its purchase obligations under the put during the complete term of the put option sold.

Sec. 227. *An insurer shall include all counterparty exposure amounts in determining compliance with the limitations of sections 200, 201 and 202 of this act.*

Sec. 228. *In accordance with the regulations adopted pursuant to section 158 of this act, the Commissioner may approve additional transactions involving the use of derivative instruments in excess of the limits of section 225 of this act or for other risk-management purposes, but replication transactions must not be allowed for other than risk-management purposes.*

Sec. 229. *An insurer may acquire investments, or engage in investment practices, in accordance with the provisions of this section and section 230 of this act, of any kind that are not specifically prohibited by this chapter, or engage in investment practices, without regard to any limitation in sections 200 to 223, inclusive, of this act, but an insurer shall not acquire an investment or engage in an investment practice in accordance with the provisions of this section and section 230 of this act if, as a result of and after giving effect to the transaction, the aggregate amount of the investments held by the insurer in accordance with the provisions of this section and section 230 of this act would exceed the greater of:*

1. Its unrestricted surplus; or

2. The lesser of:

(a) Ten percent of its admitted assets; or

(b) Fifty percent of its surplus as regards policy holders.

Sec. 230. *An insurer shall not acquire any investment or engage in any investment practice in accordance with subsection 2 of section 229 of this act if, as a result of and after giving effect to the transaction, the aggregate amount of all investments in any one person held by the insurer in accordance with subsection 1 of section 229 would exceed 5 percent of its admitted assets.*

Sec. 231. NRS 682A.020 is hereby amended to read as follows:

682A.020 ~~[1.]~~ Insurers may *acquire, hold or* invest in ~~[or lend their funds on the security of, and may hold as invested assets, only eligible investments as prescribed in this chapter.~~

~~2. Any particular investment held by an insurer on January 1, 1972, which was a legal investment at the time it was made, and which the insurer was legally entitled to possess immediately before January 1, 1972, shall be deemed to be an eligible investment.~~

~~3. Any particular investment held by a successor organization to the State Industrial Insurance System that was established by section 79 of chapter 642, Statutes of Nevada 1981, at page 1449, which was a legal investment of the System made before January 1, 2000, and which the successor organization is legally entitled to possess on or after January 1, 2000, shall be deemed to be an eligible investment of the successor organization.~~

~~4. Eligibility of an investment must be determined as of the date of its making or acquisition, except as stated in subsections 2 and 3.~~

~~5. Any investment limitation based upon the amount of the insurer's assets or particular funds must relate to such assets or funds as shown by the insurer's annual statement as of December 31 next preceding the date of acquisition of the investment by the insurer, or as shown by a current financial statement resulting from merger of another insurer, bulk reinsurance or change in capitalization.~~

~~6. No insurer may pay any commission or brokerage for the purchase or sale of property in excess of that usual and customary at the time and in the locality where such purchases or sales are made, and complete information regarding all payments of commission and brokerage must be reported in the next annual statement.]~~ *investments or engage in investment practices as set forth in this chapter. Investments not conforming to the provisions of this chapter are not admitted assets.*

Sec. 232. NRS 682B.130 is hereby amended to read as follows:

682B.130 1. An alien insurer may use Nevada as a state of entry to transact insurance in the United States of America by making and maintaining in this state a deposit of assets in trust with a bank, credit union or trust company approved by the Commissioner.

2. The deposit, together with other trust deposits of the insurer held in the United States of America for the same purpose, must be in an amount not less than as required of an alien insurer under NRS 680A.140, deposit requirement in general, and must consist of United States money, public obligations of the government or states or political subdivisions of the United States of America, and obligations of corporations and institutions in the United States of America, all as eligible for the investment of money of domestic insurers under ~~[NRS 682A.060, 682A.070 and 682A.080.]~~ *sections 159 to 193, inclusive, of this act.*

3. Such a deposit may be referred to as "trusteed assets."

Sec. 233. NRS 683A.08528 is hereby amended to read as follows:

683A.08528 1. Not later than ~~[July 1 of each year,]~~ *90 days after the expiration of the fiscal year of the administrator, or within such other period as the Commissioner may allow,* each holder of a certificate of registration as an administrator shall file with the Commissioner an annual report for ~~[the most recently completed]~~ *that* fiscal year . ~~[of the administrator.]~~ Each annual report must be verified by at least two officers of the administrator.

2. Each annual report filed pursuant to this section must include all the following:

(a) A financial statement of the administrator that has been reviewed by an independent certified public accountant.

(b) The complete name and address of each person, if any, for whom the administrator agreed to act as an administrator during the ~~[most recently completed]~~ fiscal year . ~~[of the administrator.]~~

(c) *A statement regarding the total ~~[consideration received]~~ money handled by the administrator on behalf of contracted entities in connection with his or her activities as an administrator. The statement must be on a form prescribed or approved by the Commissioner for the purpose of calculating the amount of the bond required by NRS 683A.0857.*

(d) Any other information required by the Commissioner.

3. ~~[In]~~ *Except as otherwise provided in subsection 4, in* addition to the information required pursuant to subsection 2, if an annual report is prepared on a consolidated basis, the annual report must include ~~[a columnar or combining worksheet]~~ *supplemental exhibits* that:

(a) ~~[Includes the amounts shown on the consolidated financial statement accompanying the annual report;]~~ *Have been reviewed by an independent certified public accountant; and*

(b) ~~[Separately sets forth the amounts for each entity included in the worksheet; and~~

~~(c) Includes an explanation of each consolidating and eliminating entry included in the worksheet.]~~ *Include a balance sheet and income statement for each holder of a certificate of registration as an administrator in this State.*

4. *In lieu of complying with the requirements set forth in paragraphs (a) and (b) of subsection 3, an administrator who is a wholly owned subsidiary of a parent company and who does not hold a certificate of registration in this State may submit to the Commissioner:*

(a) The financial statement of the parent company that has been audited by an independent certified public accountant; and

(b) A parental guaranty that is signed by an officer of the parent company and which guarantees the financial solvency of the administrator.

5. Each administrator who files an annual report pursuant to this section shall, at the time of filing the annual report, pay a filing fee in an amount determined by the Commissioner.

~~[5.]~~ *6.* The Commissioner shall, for each administrator, review the annual report that is most recently filed by the administrator. As soon as practicable after reviewing the report, the Commissioner shall:

(a) Issue a certificate to the administrator:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is currently licensed and in good standing in this State; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement; or

(b) Submit a statement to any electronic database maintained by the National Association of Insurance Commissioners or any affiliate or subsidiary of the Association:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is in compliance with existing law; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement.

Sec. 234. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his or her knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

(a) Attained the age of 18 years;

(b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;

(c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;

(d) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and

(e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

(a) Paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account, neither of which may be refunded;

(b) Designated a natural person who is licensed as a producer of insurance and who is authorized to transact business on behalf of the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance; ~~[and]~~

(c) If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization [.] *; and*

(d) Established and maintains a valid electronic mail address at the applicant's own expense.

3. A natural person who is a resident of this State applying for a license must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; [and]

(b) Submit to the Commissioner:

(1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary [.] *; and*

(c) Establish and maintain a valid electronic mail address.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining this information.

5. The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 235. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a

license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability income.

(b) Accident and health insurance for sickness, bodily injury or accidental death, which may include benefits for disability income.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property. For the purposes of a producer of insurance, this line of insurance includes surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(e) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(f) Credit insurance, including credit life, credit accident and health, credit property, credit involuntary unemployment, guaranteed asset protection, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(g) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(h) Fixed annuities, including, without limitation, indexed annuities, as a limited line.

(i) Travel and baggage as a limited line.

(j) Rental car agency as a limited line.

(k) Portable electronics as a limited line.

(l) Crop as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, all applicable fees for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for each license and each authorization to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his or her license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in

addition to any fee paid pursuant to this subsection, a penalty of 50 percent of all applicable renewal fees, except for any fee required pursuant to NRS 680C.110. A license as a producer of insurance expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his or her license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110, is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his or her license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. The license must be made available for public inspection upon request.

6. A licensee shall inform the Commissioner of each change of business *,* ~~[or]~~ residence *or electronic mail* address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes his or her business *,* ~~[or]~~ residence *or electronic mail* address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, the Commissioner may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his or her last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 236. NRS 683A.271 is hereby amended to read as follows:

683A.271 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance to a nonresident person if the nonresident person:

(a) Is currently licensed as a resident and in good standing in his or her home state;

(b) Has made the proper request for licensure and paid all applicable fees prescribed for the license and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account;

(c) Has sent to the Commissioner the application for licensure that the nonresident person made in his or her home state, or a completed uniform application; ~~[and]~~

(d) Has a home state which issues nonresident licenses as producers of insurance to residents of this State pursuant to substantially the same procedure ~~[.]~~ *; and*

(e) Establishes and maintains a valid electronic mail address at the applicant's own expense.

2. The Commissioner may participate with the National Association of Insurance Commissioners or a subsidiary in a centralized registry in which licensing and appointment of producers of insurance may be effected for all states that require licensing and participate in the registry. If the Commissioner finds that participation is in the public interest, the Commissioner may adopt by regulation any uniform standards and procedures necessary for participation, including central collection of fees for licensing and appointment that are handled through the registry.

3. A nonresident producer who moves from one state to another state shall file a change of address and certification from the new state of residence within 30 days after the change of legal residence. No fee or application for license is required.

4. A nonresident licensed as a producer for surplus lines in his or her home state must be issued a nonresident license of that kind in this State pursuant to subsection 1, subject in all other respects to chapter 685A of NRS. A nonresident licensed as a producer for limited lines in his or her home state is entitled to a nonresident license of that kind in this State pursuant to subsection 1, granting the same scope of authority as the license issued in the home state. As used in this subsection, insurance for limited lines is authority granted by the home state which is restricted to less than the total authority prescribed for the associated major lines pursuant to NRS 683A.261.

5. A nonresident firm or corporation maintaining a physical business location in this State shall notify the Commissioner of each physical location in this State from which it transacts business. A nonresident firm or corporation shall maintain a list identifying the locations outside this State from which it transacts business and provide the list to the Commissioner upon request.

Sec. 237. NRS 683A.378 is hereby amended to read as follows:

683A.378 1. A person shall not conduct utilization review unless the person is:

(a) Registered with the Commissioner as an agent who performs utilization review and has a medical director who is a physician or, in the case of an agent who reviews dental services, a dentist, licensed in any state; or

(b) Employed by a registered agent who performs utilization review.

2. A person may apply for registration by filing with the Commissioner a $250 fee and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110 and the following information on a form provided by the Commissioner:

(a) The applicant's name, address, telephone number *, valid electronic mail address* and normal business hours;

(b) The name and telephone number of a person the Commissioner may contact for information concerning the applicant;

(c) The name of the medical director of the applicant and the state in which he or she is licensed to practice medicine or dentistry; and

(d) A summary of the plan for utilization review, including procedures for appealing determinations made through utilization review.

3. An agent who performs utilization review shall file with the Commissioner any material changes in the information provided pursuant to subsection 1 within 30 days after the change occurs.

4. The Commissioner shall not evaluate the plan submitted pursuant to paragraph (d) of subsection 2. The Commissioner shall make the plan available upon request and shall charge a reasonable fee for providing a copy of the plan.

5. Registration pursuant to this section must be renewed on or before March 1 of each year by providing the information specified in subsection 2 and paying a renewal fee of $250 and, in addition to any other fee or charge, all applicable fees required pursuant to NRS 680C.110.

Sec. 238. 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 ~~[.]~~ *or a crime which involves theft, fraud, dishonesty or moral turpitude.*

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 *, or otherwise,* 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.]~~ *by law.*

Sec. 239. NRS 686B.080 is hereby amended to read as follows:

686B.080 1. Except as otherwise provided in subsections 2 ~~[and 3,]~~ *to 5, inclusive,* each filing and any supporting information filed under NRS 686B.010 to 686B.1799, inclusive, must, as soon as filed, be open to public inspection at any reasonable time. Copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

2. All ~~[approved]~~ rates for health benefit plans available for purchase by individuals *and small employers* are considered proprietary and ~~[to]~~ constitute trade secrets, and are not subject to disclosure by the Commissioner to persons outside the Division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.

3. The provisions of subsection 2 expire annually on the date 30 days before open enrollment.

4. *Except in cases of violations of NRS 689A.010 to 689A.740, inclusive, or 689C.015 to 689C.355, inclusive, the unified rate review template and rate filing documentation used by carriers servicing the individual and small employer markets are considered proprietary and constitute a trade secret, and are not subject to disclosure by the Commissioner to persons outside the Division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.*

5. An insurer providing blanket health insurance in accordance with the provisions of chapter 689B of NRS shall make all information concerning rates available to the Commissioner upon request. Such information is considered proprietary and constitutes a trade secret and is not subject to disclosure by the Commissioner to persons outside the Division except as agreed by the insurer or as ordered by a court of competent jurisdiction.

6. For the purposes of this section ~~[, "open]~~ *:*

(a) "Open enrollment" has the meaning ascribed to it in 45 C.F.R. § 147.104(b)(1)(ii).

(b) "Rate filing documentation" and "unified rate review template" have the meanings ascribed to them in 45 C.F.R. § 154.215.

Sec. 240. Chapter 686C of NRS is hereby amended by adding thereto the provisions set forth as sections 241 to 246, inclusive, of this act.

Sec. 241. *1. At any time within 180 days after the date of an order of liquidation, the Association may elect to succeed to the rights and obligations of the ceding member insurer that relate to policies or annuities covered, in whole or in part, by the Association, in each case under any one or more reinsurance contracts entered into by the insolvent insurer and its reinsurers and selected by the Association. Any such assumption must be effective on the date of the order of liquidation. The election must be carried out by the Association sending written notice, return receipt requested, to the affected reinsurers.*

2. To facilitate the earliest practicable decision about whether to assume any of the contracts of reinsurance, and to protect the financial position of the estate, the receiver and each reinsurer of the ceding insurer shall make available upon request to the Association as soon as possible after commencement of formal delinquency proceedings:

(a) Copies of in-force contracts of reinsurance and all related files and records relevant to the determination of whether such contracts should be assumed; and

(b) Notices of any defaults under the reinsurance contracts or any known event or condition which with the passage of time could become a default under the reinsurance contracts.

3. The following apply to reinsurance contracts assumed by the Association:

(a) The Association is responsible for all unpaid premiums due pursuant to the reinsurance contracts for periods both before and after the date of the order of liquidation, and is responsible for the performance of all other obligations to be performed after the date of the order of liquidation, in each case which relates to policies or annuities covered, in whole or in part, by the Association. The Association may charge policies or annuities covered in part by the Association, through reasonable allocation methods, the costs for reinsurance in excess of the obligations of the Association and shall provide notice and an accounting of these changes to the liquidator.

(b) The Association may be entitled to any amounts payable by the reinsurer pursuant to the reinsurance contracts with respect to losses or events that occur in periods after the date of the order of liquidation and which relate to policies or annuities covered, in whole or in part, by the Association, provided that, upon receipt of any such amounts, the Association is obligated to pay to the beneficiary, under the policy or annuity on account of which the amounts were paid, a portion of the amount equal to the lesser of:

(1) The amount received by the Association; or

(2) The excess of the amount received by the Association over the amount equal to the benefits paid by the Association on account of the policy or annuity, less the retention of the insurer applicable to the loss or event.

(c) Within 30 days after the Association's election, the Association and each reinsurer under the contracts assumed by the Association shall calculate the net balance due to or from the Association pursuant to each reinsurance contract on the election date with respect to policies or annuities covered, in whole or in part, by the Association, which calculation must give full credit to all items paid by either the insurer or its receiver or the reinsurer before the election date. The reinsurer shall pay the receiver any amounts due for losses or events before the date of the order of liquidation, subject to any set-off for premiums unpaid for periods before the date, and the Association or reinsurer shall pay any remaining balance due to the other, in each case within 5 days after the completion of the aforementioned calculation. Any disputes over the amounts due to either the Association or the reinsurer must be resolved by arbitration pursuant to the terms of the affected reinsurance contracts or, if the contracts contain no arbitration clause, as otherwise prescribed by law. If the receiver has received any amounts due to the Association under paragraph (d), the receiver shall remit the same to the Association as promptly as practicable.

(d) If the Association or receiver, on the Association's behalf, within 60 days after the election date, pays the unpaid premiums due for periods both before and after the election date that relate to policies or annuities covered, in whole or in part, by the Association, the reinsurer is not entitled to terminate the reinsurance contracts for failure to pay premiums insofar as the reinsurance contracts relate to policies or annuities covered, in whole or in part, by the Association, and is not entitled to set off any unpaid amounts due pursuant to the other contracts, or unpaid amounts due from parties other than the Association, against amounts due to the Association.

Sec. 242. *1. During the period after the date of an order of liquidation until the election date, or, if the election date does not occur, until 180 days after the date of the order of liquidation:*

(a) Neither the Association nor the reinsurer shall have any rights or obligations under reinsurance contracts that the Association has the right to assume under section 241 of this act, whether for periods before or after the date of the order of liquidation.

(b) The reinsurer, the receiver and the Association shall, to the extent practicable, provide each other data and records as reasonably requested.

2. Once the Association has elected to assume a reinsurance contract, the parties' rights and obligations are governed by the provisions of section 241 of this act.

Sec. 243. *If the Association does not elect to assume a reinsurance contract by the election date under section 241 of this act, the Association has no rights or obligations, in each case for periods both before and after the date of the order of liquidation, with respect to the reinsurance contract.*

Sec. 244. *When policies or annuities, or covered obligations with respect thereto, are transferred to an assuming insurer, reinsurance on the policies or annuities may also be transferred by the Association, in the case of contracts assumed under section 241 of this act, subject to the following:*

1. Unless the reinsurer and the assuming insurer agree otherwise, the reinsurance contract transferred must not cover any new policies of insurance or annuities in addition to those transferred.

2. The obligations described in section 241 of this act no longer apply with respect to matters arising after the effective date of the transfer.

3. Notice must be given in writing, return receipt requested, by the transferring party to the affected reinsurer not less than 30 days before the effective date of the transfer.

Sec. 245. *The provisions of sections 241 to 246, inclusive, of this act supersede the provisions of any state law or of any affected reinsurance contract that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the date of an order of liquidation, to the receiver of the insolvent insurer or any other person. The receiver shall remain entitled to any amounts payable by the reinsurer pursuant to the reinsurance contracts with respect to losses or events that occur in periods before the date of the order of liquidation, subject to applicable set-off provisions.*

Sec. 246. *1. Except as otherwise provided in NRS 686C.130 to 686C.226, inclusive, nothing in sections 241 to 246, inclusive, of this act shall alter or modify the terms and conditions of any reinsurance contract.*

2. Nothing in this section shall:

(a) Abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a reinsurance contract;

(b) Give a policyholder or beneficiary an independent cause of action against a reinsurer that is not otherwise set forth in the reinsurance contract;

(c) Limit or affect the Association's rights as a creditor of the estate against the assets of the estate; or

(d) Apply to reinsurance agreements covering property or casualty risks.

Sec. 247. NRS 686C.030 is hereby amended to read as follows:

686C.030 1. This chapter provides coverage for the policies or contracts described in subsection 4 to persons who are:

(a) Owners of or certificate holders under such policies or contracts, other than structured settlement annuities, and who:

(1) Are residents of this state; or

(2) Are not residents, but only if:

(I) The insurer that issued the policies or contracts is domiciled in this state;

(II) The states in which the persons reside have associations similar to the Association created by this chapter; and

(III) The persons are not eligible for coverage by an association in another state because the insurer was not authorized in the other state at the time specified in that state's law governing guaranty associations; and

(b) Beneficiaries, assignees or payees of the persons covered under paragraph (a), wherever they reside, except for nonresident certificate holders under group policies or contracts.

2. For structured settlement annuities, except as otherwise provided in subsection 3, this chapter provides coverage to a payee under the annuity, or beneficiary of a payee if the payee is deceased, if the payee or beneficiary:

(a) Is a resident of this state, regardless of the residence of the owner of the annuity; or

(b) Is not a resident of this state, but:

(1) The owner of the annuity is a resident of this state, or the issuer of the annuity is domiciled in this state and the state in which the owner resides has an association similar to the Association created by this chapter; and

(2) Neither the payee or beneficiary nor the owner of the annuity is eligible for coverage by the association of the state in which the payee, beneficiary or owner resides.

3. This chapter does not provide coverage for a payee or beneficiary of a structured settlement annuity if the owner of the annuity is a resident of this state and the payee or beneficiary is afforded any coverage by the association of another state. In determining the application of the provisions of this chapter to a situation where a person could be covered by the association of more than one state, this chapter must be construed in conjunction with the laws of other states to result in coverage by only one association.

4. This chapter provides coverage to the persons described in subsections 1 and 2 for direct, nongroup life, health and ~~[supplemental]~~ *annuity* policies or contracts, ~~[and annuities, and]~~ *for* certificates under direct group policies and contracts, and ~~[annuities,]~~ *for supplemental contracts to any of these, in each case issued by member insurers,* except as limited by this chapter.

Sec. 248. NRS 686C.090 is hereby amended to read as follows:

686C.090 "Impaired insurer" means ~~[an]~~ *a member* insurer which is not an insolvent insurer and is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

Sec. 249. NRS 686C.095 is hereby amended to read as follows:

686C.095 "Insolvent insurer" means ~~[an]~~ *a member* insurer which is ordered to liquidate by a court of competent jurisdiction after a finding of insolvency.

Sec. 250. ~~[NRS 686C.100 is hereby amended to read as follows:~~

~~686C.100 "Member insurer" means an insurer which is licensed or holds a certificate of authority to transact in this state any kind of insurance for which coverage is provided in this chapter and includes an insurer whose license or certificate of authority in this state has been suspended, revoked, not renewed or voluntarily withdrawn. The term does not include:~~

~~1. [A hospital or medical organization, whether or not for profit;~~
~~2. A health maintenance organization;~~
~~3.] A fraternal benefit society;~~
~~[4.] 2. A mandatory state pooling plan;~~
~~[5.] 3. A mutual assessment company or other person that operates on the basis of assessments;~~
~~[6.] 4. An insurance exchange;~~
~~[7.] 5. An organization that is authorized only to issue charitable gift annuities under NRS 688A.281 to 688A.285, inclusive; or~~
~~[8.] 6. An organization similar to any of those listed in subsections 1 to [7,] 5, inclusive.]~~ (Deleted by amendment.)

Sec. 251. NRS 686C.110 is hereby amended to read as follows:

686C.110 "Premiums" means amounts received in any calendar year on covered policies or contracts less premiums, considerations and deposits returned thereon, and less dividends and credits for experience thereon. The term does not include:

1. Any amounts received for policies or contracts or for the portions of policies or contracts for which coverage is not provided under NRS 686C.030 except that the assessable premium is not reduced on account of paragraph (c) of subsection 1 of NRS 686C.035 relating to limitations on interest and subsection 2 or paragraph (b) of subsection 1 of NRS 686C.210 relating to limitations with respect to any one life.

2. Premiums for an unallocated annuity contract ~~[.]~~ *, except those issued in accordance with the provisions of a governmental retirement plan, established under section 401, 403(b) or 457 of the Internal Revenue Code, 26 U.S.C. §§ 401, 403(b) and 457, respectively, or the trustees of such a plan.*

3. Premiums that exceed $5,000,000 for several nongroup policies of life insurance owned by one owner, regardless of:

(a) Whether the owner is a natural person, firm, corporation or other person;

(b) Whether any person insured under the policies is an officer, manager, employee or other person; or

(c) The number of policies or contracts held by the owner.

Sec. 252. NRS 686C.120 is hereby amended to read as follows:

686C.120 "Resident" means any person to whom a contractual obligation is owed and who resides in this state on the date of entry of a court order that determines a member insurer to be impaired or insolvent . ~~[, whichever determination is first made.]~~ A person may be a resident of but one state, which in the case of a person other than a natural person is its principal place of business. A citizen of the United States who is a resident of a foreign country or of a territory or insular possession subject to the jurisdiction of the United States which does not have an association similar to the Association created by this chapter shall be deemed to be a resident of the state of domicile of the insurer that issued the policy or contract.

Sec. 253. NRS 686C.240 is hereby amended to read as follows:

686C.240 1. The Board of Directors of the Association shall determine the amount of each assessment in Class A and may, but need not, prorate it. If an assessment is prorated, the Board may provide that any surplus be credited against future assessments in Class B. An assessment which is not prorated must not exceed ~~[$300]~~ *$500* for each member insurer for any 1 calendar year.

2. The Board may allocate any assessment in Class B among the accounts according to the premiums or reserves of the impaired or insolvent insurer or any other standard which it considers fair and reasonable under the circumstances.

3. Assessments in Class B against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each account or subaccount for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to premiums received on business in this State for those calendar years by all assessed member insurers.

4. Assessments for money to meet the requirements of the Association with respect to an impaired or insolvent insurer must not be authorized or called until necessary to carry out the purposes of this chapter. Classification of assessments under subsection 2 of NRS 686C.230 and computation of assessments under this section must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated prorated share of an assessment authorized but not yet called within 180 days after it is authorized.

Sec. 254. Chapter 687A of NRS is hereby amended by adding thereto a new section to read as follows:

"Assumed claims transaction" includes:

1. A policy obligation that has been assumed by an insolvent insurer, before the entry of a final order of liquidation, through a merger between the insolvent insurer and another entity obligated under the policy.

2. An assumption reinsurance transaction in which:

(a) The insolvent insurer assumed, before the entry of a final order of liquidation, the claim or policy obligations of another insurer or entity obligated under a claim or policy;

(b) The assumption of the claim or policy obligations has been approved by the Commissioner, if such approval is required; and

(c) As a result of the assumption, the claim or policy obligation became the direct obligation of the insolvent insurer through a novation of the claim or policy.

Sec. 255. NRS 687A.030 is hereby amended to read as follows:

687A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 687A.031 to 687A.039, inclusive, *and section 254 of this act* have the meanings ascribed to them in those sections.

Sec. 256. NRS 687A.033 is hereby amended to read as follows:

687A.033 1. "Covered claim" means an unpaid claim or judgment, including a claim for unearned premiums, which arises out of and is within the coverage of an insurance policy to which this chapter applies ~~[issued by an insurer which]~~ *if the insurer* becomes an insolvent insurer, ~~[if]~~ *the policy was issued by the insurer or assumed by the insurer in an assumed claims transaction, and* one of the following conditions exists:

(a) The claimant or insured, if a natural person, is a resident of this State at the time of the insured event.

(b) The claimant or insured, if other than a natural person, maintains its principal place of business in this State at the time of the insured event.

(c) The property from which the first party property damage claim arises is permanently located in this State.

(d) The claim is not a covered claim pursuant to the laws of any other state and the premium tax imposed on the insurance policy is payable in this State pursuant to NRS 680B.027.

2. The term does not include:

(a) An amount that is directly or indirectly due a reinsurer, insurer, insurance pool or underwriting association, as recovered by subrogation, indemnity or contribution, or otherwise.

(b) That part of a loss which would not be payable because of a provision for a deductible or a self-insured retention specified in the policy.

(c) Except as otherwise provided in this paragraph, any claim filed with the Association:

(1) More than 18 months after the date of the order of liquidation; or

(2) After the final date set by the court for the filing of claims against the liquidator or receiver of the insolvent insurer,

➥ whichever is earlier. The provisions of this paragraph do not apply to a claim for workers' compensation that is reopened pursuant to the provisions of NRS 616C.390 or 616C.392.

(d) A claim filed with the Association for a loss that is incurred but is not reported to the Association before the expiration of the period specified in subparagraph (1) or (2) of paragraph (c).

(e) An obligation to make a supplementary payment for adjustment or attorney's fees and expenses, court costs or interest and bond premiums incurred by the insolvent insurer before the appointment of a liquidator, unless the expenses would also be a valid claim against the insured.

(f) A first party or third party claim brought by or against an insured, if the aggregate net worth of the insured and any affiliate of the insured, as determined on a consolidated basis, is more than $25,000,000 on December 31 of the year immediately preceding the date the insurer becomes an insolvent insurer. The provisions of this paragraph do not apply to a claim

for workers' compensation. As used in this paragraph, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For the purpose of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of 10 percent or more.

Sec. 257. NRS 687B.420 is hereby amended to read as follows:

687B.420 ~~[An]~~

1. ~~*[Except as provided in subsection 2, an]*~~ *An* insurer shall not cancel, fail to renew or renew with altered terms a policy or contract issued pursuant to chapter 688B, 689A, 689B, 689C, 695A, 695B, 695C, 695D or 695F of NRS unless notice in writing of the proposal is given to the insured at least 60 days before the date the proposed action becomes effective. The notice must include, without limitation, any changes in specific rates by line of coverage.

2. An insurer shall not cancel, fail to renew or renew with altered terms ~~*[a]*~~ *an individual health benefit plan that is not grandfathered pursuant to applicable law unless notice in writing of the proposal is given to the insured at least* ~~*[60]*~~ *30 days before the beginning of the open enrollment period described in NRS 686B.080. The notice must include the specific changes in terms or rates, as applicable.*

Sec. 258. NRS 688A.305 is hereby amended to read as follows:

688A.305 1. This section applies to all policies issued on or after January 1, 1987. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary must be in an amount which does not differ by more than two-tenths of 1 percent of the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years, from the sum of:

(a) The greater of zero and the basic cash value specified in this section; and

(b) The present value of any existing paid-up additions less the amount of any indebtedness to the ~~[insurer]~~ *company* under the policy.

2. The basic cash value must be equal to the present value, on the anniversary, of the future guaranteed benefits which would have been provided by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the ~~[insurer,]~~ *company,* if there had been no default, less the present value of the nonforfeiture factors, ~~[corresponding to premiums which would have fallen due on and after the anniversary.]~~ *as defined in NRS 688A.290 to 688A.360, inclusive.* The effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in *this section or* NRS 688A.300 or 688A.320, whichever is applicable, must be the same as the effects specified in *this section or* NRS 688A.300 or 688A.320, on the cash surrender values defined in ~~[that]~~ *the applicable* section.

3. The nonforfeiture factor for each policy year must be an amount equal to a percentage of the adjusted premium for the policy year, as defined in NRS 688A.320 or 688A.325, whichever is applicable. Except as is required in this subsection, the percentage must be:

(a) The same for each policy year between the second policy anniversary and the later of:

(1) The fifth policy anniversary; and

(2) The first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of 1 percent of the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

(b) Such that no percentage after the later of the two policy anniversaries specified in paragraph (a) may apply to fewer than 5 consecutive policy years.

➥ No basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in NRS 688A.320 or 688A.325, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

4. All adjusted premiums and present values referred to in this section for a particular policy must be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with NRS 688A.290 to 688A.360, inclusive. The cash surrender values referred to in this section must include any endowment benefits provided for by the policy.

5. Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment must be determined by methods consistent with those specified for determining the analogous minimum amounts in NRS 688A.290 , 688A.300, *688A.310,* 688A.325 and 688A.350. ~~*[to 688A.340, inclusive.]*~~ The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed in paragraphs (a) to (f), inclusive, of subsection 4 of NRS 688A.350, must conform with the principles of this section.

Sec. 259. ~~[NRS 688A.315 is hereby amended to read as follows:~~

~~688A.315 *1.* In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurer based on estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in NRS 688A.290 to 688A.340, inclusive:~~

~~[1.] *(a)* The Commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as~~

~~the minimum benefits otherwise required by NRS 688A.290 to 688A.340, inclusive;~~

~~[2.] *(b)* The Commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds; and~~

~~[3.] *(c)* The cash surrender values and paid-up nonforfeiture benefits provided by the plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of the Standard Nonforfeiture Law for Life Insurance, as determined by regulations adopted by the Commissioner.~~

~~*2. Notwithstanding any other provision of the laws of this State, any policy, contract or certificate providing life insurance under any plan must be approved affirmatively by the Commissioner before it can be marketed, issued for delivery, delivered or used in this State.]~~ (Deleted by amendment.)

Sec. 259.5. NRS 688A.325 is hereby amended to read as follows:

688A.325 1. This section applies to all policies issued by an insurer on or after the operative date of this section as it relates to that insurer. Except as otherwise provided in subsection 7, the adjusted premiums for any policy must be calculated on an annual basis and be the uniform percentage of the respective premium specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits. The present value, at the date of issue of the policy, of all adjusted premiums must be equal to the sum of:

(a) The value of the future guaranteed benefits provided for by the policy;

(b) One percent of the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

(c) One hundred twenty-five percent of the nonforfeiture net level premium. In applying the percentage specified in paragraph (c), no nonforfeiture net level premium may be deemed to exceed 4 percent of the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this section must be the date as of which the rated age of the insured is determined.

2. The nonforfeiture net level premium must be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of the policy on which a premium falls due.

3. In the case of policies which cause unscheduled changes in benefits or premiums on a basis guaranteed in the policy, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values must initially be calculated on the

assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums and present values must be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

4. Except as otherwise provided in subsection 7, the recalculated future adjusted premiums for any such policy must be a uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards and any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, which results in the present value, at the time of change to the newly defined benefits or premiums, of all future adjusted premiums being equal to the excess of the sum of the present value of the future guaranteed benefits provided for by the policy and the additional expense allowance, if any, over the cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

5. The additional expense allowance, at the time of the change to the newly defined benefits or premiums, must be the sum of:

(a) One percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years after the change, over the average amount of insurance before the change at the beginning of each of the first 10 policy years after the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and

(b) One hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.

6. The recalculated nonforfeiture net level premium must be equal to the result obtained by dividing amount "A" by amount "B" where:

(a) "A" equals the sum of:

(1) The nonforfeiture net level premium applicable before the change, multiplied by the present value of an annuity of one per annum payable on each anniversary of the policy on or after the date of the change on which a premium would have fallen due if the change had not occurred; and

(2) The present value of the increase in future guaranteed benefits provided for by the policy.

(b) "B" equals the present value of an annuity of one per annum payable on each anniversary of the policy on or after the date of change on which a premium falls due.

7. In the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance,

adjusted premiums and present values for the substandard policy may be calculated as if it were issued to provide the higher uniform amounts of insurance on the standard basis.

8. All adjusted premiums and present values referred to in NRS 688A.290 to 688A.360, inclusive, must be calculated for all policies of ordinary insurance on the basis of the Commissioners 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; all policies of industrial insurance must be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table; and all policies issued in a particular calendar year must be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate established in this section for policies issued in that calendar year, except as follows:

(a) At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, established in this section, for policies issued in the immediately preceding calendar year.

(b) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by NRS 688A.290, must be calculated on the basis of the mortality table and rate of interest used in determining the amount of the paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(c) An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate which is not lower than that specified in the policy for calculating cash surrender values.

(d) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(e) For insurance issued on a substandard basis or a special underwriting basis, the calculation of any adjusted premiums and present values may be based on appropriate modifications of the tables specified in this subsection.

(f) ~~[Any]~~ *For policies issued:*

(1) Before the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, any Commissioners Standard ordinary mortality tables which are adopted after 1980 by the National Association of Insurance Commissioners and are approved by a regulation adopted by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table.

(2) On or after the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, the Valuation Manual must set forth the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard ordinary mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the Valuation Manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard specified in the Valuation Manual.

(g) ~~[Any]~~ *For policies issued:*

(1) Before the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, any Commissioners Standard industrial mortality tables which are adopted after 1980 by the National Association of Insurance Commissioners and are approved by a regulation adopted by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

(2) On or after the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, the Valuation Manual must set forth the Commissioners Standard industrial mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard industrial mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the Valuation Manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard specified in the Valuation Manual.

9. ~~[The]~~ *For the purposes of this section:*

(a) For policies issued before the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, the nonforfeiture interest rate for any policy issued in a particular calendar year must be equal to ~~[125]~~ *the greater of:*

(1) One hundred twenty-five percent of the calendar year statutory valuation interest rate for the policy as defined in the Standard Valuation Law, rounded to the nearer one-fourth of 1 percent ~~[.]~~ *; or*

(2) Four percent.

(b) For policies issued on or after the operative date of the Valuation Manual, as determined pursuant to section 33.7 of this act, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year must be as specified in the Valuation Manual.

10. Any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values does not require refiling of any other provisions of that policy form.

11. After July 1, 1983, any insurer may file with the Commissioner a written notice of its election to comply with the provision of this section after a specified date before January 1, 1989. A date so specified is the operative date of this section for that insurer. If an insurer makes no election, the operative date of this section for that insurer is January 1, 1989.

12. As used in this section, "Valuation Manual" has the meaning ascribed to it in section 32 of this act.

Sec. 260. NRS 688A.390 is hereby amended to read as follows:

688A.390 1. A domestic life insurer may establish one or more separate accounts, and may allocate thereto amounts (including without limitation proceeds applied under optional modes of settlement or under dividend options) to provide for life insurance or annuities (and benefits incidental thereto), payable in fixed or variable amounts or both, subject to the following:

(a) The income, gains and losses, realized or unrealized, from assets allocated to a separate account shall be credited to or charged against the account, without regard to other income, gains or losses of the company.

(b) Except as may be provided with respect to reserves for guaranteed benefits and funds referred to in paragraph (c):

(1) Amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; and

(2) The investments in such separate account or accounts shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company.

(c) Except with the approval of the Commissioner and under such conditions as to investments and other matters as the Commissioner may prescribe, which shall recognize the guaranteed nature of the benefits provided, reserves for:

(1) Benefits guaranteed as to dollar amount and duration; and

(2) Funds guaranteed as to principal amount or stated rate of interest,

➥ shall not be maintained in a separate account.

(d) Unless otherwise approved by the Commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; but unless otherwise approved by the Commissioner, the portion if any of the assets of such separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds

referred to in paragraph (c) shall be valued in accordance with the rules otherwise applicable to the company's assets.

(e) Amounts allocated to a separate account in the exercise of the power granted by this section shall be owned by the company, and the company shall not be, nor hold itself out to be, a trustee with respect to such amounts. If and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

(f) No sale, exchange or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, in case of a transfer into a separate account, such transfer is made solely to establish the account pursuant to subsection 6 or to support the operation of the contracts with respect to the separate account to which the transfer is made, and unless such transfer, whether into or from a separate account, is made:

(1) By a transfer of cash; or

(2) By a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the Commissioner.

➥ The Commissioner may approve other transfers among such accounts if, in the opinion of the Commissioner, such transfers would not be inequitable.

(g) To the extent such company deems it necessary to comply with any applicable federal or state laws, such company, with respect to any separate account, including without limitation any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants and the selection of a committee, the members of which need not be otherwise affiliated with such company, to manage the business of such account.

2. Any contract providing benefits payable in variable amounts delivered or issued for delivery in this state, including a group contract and any certificate issued thereunder, shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract under which the benefits vary to reflect investment experience, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state that such dollar amount will so vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

3. No company shall deliver or issue for delivery within this state variable contracts unless it is licensed or organized to do a life insurance or

annuity business in this state, and the Commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the Commissioner shall consider among other things:

(a) The history and financial condition of the company;

(b) The character, responsibility and fitness of the officers and directors of the company; and

(c) The law and regulations under which the company is authorized in the state of domicile to issue variable contracts.

➥ If the company is a subsidiary of an admitted life insurance company, or affiliated with such company through common management or ownership, it may be deemed by the Commissioner to have met the provisions of this subsection if either it or the parent or the affiliated company meets the requirements hereof.

4. Notwithstanding any other provision of law, the Commissioner has sole authority to regulate the issuance and sale of variable contracts, and to issue such reasonable rules and regulations as may be appropriate to carry out the purposes and provisions of this section.

5. Except for NRS 688A.190, 688A.240 and 688A.250 in the case of a variable annuity contract and NRS 688A.060, 688A.110, 688A.120, 688A.130, 688A.290 to 688A.360, inclusive, and 688B.050 in the case of a variable life insurance policy and except as otherwise provided in this Code, all pertinent provisions of this Code shall apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this state, shall contain grace, reinstatement and nonforfeiture provisions appropriate to such a contract. Any individual variable annuity contract, delivered or issued for delivery in this state, shall contain grace and reinstatement provisions appropriate to such a contract. The reserve liability for variable contracts shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

6. A domestic life insurer which establishes one or more separate accounts pursuant to this section may participate therein by allocating and contributing to such separate account funds which otherwise might be invested pursuant to ~~[subsection 1 of NRS 682A.050 and NRS 682A.110.]~~ *sections 164 and 201 of this act.* The insurer shall have a proportionate interest in any such account, along with all other participating contract holders, to the extent of its participation therein . ~~[, and with respect thereto shall also be subject to all the provisions of NRS 682A.210 applicable to separate account contract holders generally.]~~ The aggregate amount so allocated or contributed by such an insurer to one or more separate accounts shall not, without the consent of the Commissioner, exceed the greater of:

(a) One hundred thousand dollars;

(b) One percent of its admitted assets as of December 31 next preceding; or

(c) Five percent of its surplus as to policyholders as of December 31 next preceding.

➥ All funds allocated or contributed by the insurer to a separate account for the purpose of participation therein shall be included in applying the limitations upon investments otherwise specified in this Code. The insurer shall be entitled to withdraw at any time in whole or in part its participation in any separate account to which funds have been allocated or contributed and to receive upon withdrawal its proportional share of the value of the assets of the separate account at the time of withdrawal.

Sec. 261. NRS 689A.700 is hereby amended to read as follows:

689A.700 The Commissioner may adopt regulations to carry out the provisions of this section and NRS 689A.690 ~~[and 689A.695]~~ and to ensure that the practices used by individual carriers relating to the establishment of rates are consistent with the purposes of NRS 689A.470 to 689A.740, inclusive.

Sec. 262. NRS 689A.725 is hereby amended to read as follows:

689A.725 For the purposes of NRS 689A.470 to 689A.740, inclusive, a plan for coverage of a bona fide association must:

1. Conform with NRS 689A.690 ~~[, 689A.695]~~ and 689A.700 concerning rates.

2. Provide for the renewability of coverage for members of the bona fide association, and their dependents, if such coverage meets the criteria set forth in NRS 689A.630.

Sec. 263. NRS 690B.023 is hereby amended to read as follows:

690B.023 If insurance for the operation of a motor vehicle required pursuant to NRS 485.185 is provided by a contract of insurance, the insurer shall:

1. Provide evidence of insurance *, which may be provided in paper or electronic format,* to the insured on a form *or in a format* approved by the Commissioner. The evidence of insurance must include:

(a) The name and address of the policyholder;

(b) The name and address of the insurer;

(c) Vehicle information, consisting of:

(1) The year, make and complete identification number of the insured vehicle or vehicles; or

(2) The word "Fleet" and the name of the registered owner if the vehicle is covered under a fleet policy written on an any auto basis or blanket policy basis;

(d) The term of the insurance, including the day, month and year on which the policy:

(1) Becomes effective; and

(2) Expires;

(e) The number of the policy;

(f) A statement that the coverage meets the requirements set forth in NRS 485.185; and

(g) The statement "This ~~[card]~~ *evidence of insurance* must be carried in the insured motor vehicle for production upon demand." The statement must be prominently displayed.

2. Provide new evidence of insurance if:

(a) The information regarding the insured vehicle or vehicles required pursuant to paragraph (c) of subsection 1 no longer is accurate;

(b) An additional motor vehicle is added to the policy;

(c) A new number is assigned to the policy; or

(d) The insured notifies the insurer that the original evidence of insurance has been lost.

Sec. 264. Chapter 692C of NRS is hereby amended by adding thereto the provisions set forth as sections 265 to 289, inclusive, of this act.

Sec. 265. *"Insurance group" means, for the purpose of conducting an ORSA, those insurers and affiliates included within an insurance holding company system.*

Sec. 266. *"NAIC" means the National Association of Insurance Commissioners.*

Sec. 267. *"Own Risk and Solvency Assessment" or "ORSA" means a confidential internal assessment, appropriate to the nature, scale and complexity of an insurer or insurance group, conducted by that insurer or insurance group, of the material and relevant risks associated with the insurer or insurance group's current business plan, and the sufficiency of capital resources to support those risks.*

Sec. 268. *"ORSA Guidance Manual" means the current version of the NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual developed and adopted by the NAIC, as amended. A change in the ORSA Guidance Manual is effective on the first day of January following the calendar year in which the changes were adopted by the NAIC.*

Sec. 269. *"ORSA Summary Report" means a confidential high-level summary of an ORSA.*

Sec. 270. *An insurer shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing and reporting on its material relevant risks. This requirement shall be deemed satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.*

Sec. 271. *Subject to the provisions of sections 275 to 280, inclusive, of this act, an insurer, or the insurance group of which the insurer is a member, shall regularly conduct an ORSA consistent with a process comparable to that set forth in the ORSA Guidance Manual. An ORSA must be conducted not less than annually but also at any time when there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.*

Sec. 272. *Upon the request of the Commissioner, and not more than once each year, an insurer shall submit to the Commissioner an ORSA Summary Report or any combination of reports that together contain the information described in the ORSA Guidance Manual, applicable to the insurer and the insurance group of which the insurer is a member. Notwithstanding any request from the Commissioner, if the insurer is a member of an insurance group, the insurer shall submit the report required by this section if the Commissioner is the lead state commissioner of the insurance group as determined by the procedures within the Financial Analysis Handbook, published by the NAIC.*

Sec. 273. *The report required by section 272 of this act must include a signature of the insurer or insurance group's chief risk officer, or other executive having responsibility for the oversight of the insurer's enterprise risk management process, attesting to the best of his or her belief and knowledge that the insurer applies the enterprise risk management processes described in the ORSA Summary Report and that a copy of the Report has been provided to the insurer's board of directors or the appropriate committee thereof.*

Sec. 274. *An insurer may comply with the requirements of section 272 of this act by providing the most recent and substantially similar report provided by the insurer or another member of an insurance group of which the insurer is a member to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the ORSA Guidance Manual. Any such report in a language other than English must be accompanied by a translation of that report into the English language.*

Sec. 275. *An insurer is exempt from the requirements of sections 270 to 289, inclusive, of this act, if:*

1. The insurer has annual direct written and unaffiliated assumed premiums, including international direct and assumed premiums, but excluding premiums reinsured with the Federal Crop Insurance Corporation and the National Flood Insurance Program, of less than $500,000,000; and

2. The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premiums, including international direct and assumed premiums but excluding premiums reinsured with the Federal Crop Insurance Corporation and the National Federal Flood Insurance Program, of less than $1 billion.

Sec. 276. *If an insurer qualifies for an exemption pursuant to subsection 1 of section 275 of this act and the insurance group of which the insurer is a member does not qualify for an exemption pursuant to subsection 2 of that section, the ORSA Summary Report that may be required under sections 272, 273 and 274 of this act must include every insurer within the insurance group. This requirement shall be deemed satisfied by the submission of more than one ORSA Summary Report for any combination of*

insurers, provided that any combination of reports includes every insurer within the insurance group.

Sec. 277. *If an insurer does not qualify for an exemption pursuant to subsection 1 of section 275 of this act and the insurance group of which the insurer is a member qualifies for an exemption pursuant to subsection 2 of that section, the ORSA Summary Report that may be required under sections 272, 273 and 274 of this act is the report applicable to that insurer.*

Sec. 278. *An insurer that does not qualify for an exemption pursuant to section 275 of this act may apply to the Commissioner for a waiver from the requirements of sections 270 to 289, inclusive, of this act based on unique circumstances. In deciding whether to grant the insurer's request for a waiver, the Commissioner may consider the type and volume of business written, ownership and organizational structure, and any other factor the Commissioner considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is part of an insurance group with insurers domiciled in more than one state, the Commissioner shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.*

Sec. 279. *Notwithstanding the provisions of sections 275 to 278, inclusive, of this act:*

1. The Commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA Summary Report based on unique circumstances, including, without limitation, the type and volume of business written, ownership and organizational structure, federal agency requests and international supervisor requests.

2. The Commissioner may require that an insurer maintain a risk management framework, conduct an ORSA and file an ORSA Summary Report if the insurer has risk-based capital for company action level event, as defined in regulations adopted by the Commissioner, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, as defined in NRS 680A.205, or otherwise exhibits qualities of a troubled insurer as determined by the Commissioner.

Sec. 280. *If an insurer that qualifies for an exemption pursuant to section 275 of this act subsequently no longer qualifies for that exemption as a result of changes in premium as reflected in the insurer's most recent annual statement, or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer shall have 1 year after the date on which the threshold is exceeded to comply with the requirements of sections 270 to 289, inclusive, of this act.*

Sec. 281. *An ORSA Summary Report must be prepared consistent with the ORSA Guidance Manual, subject to the requirements of this section and section 282 of this act. Documentation and supporting information must be maintained and made available upon examination or upon request of the Commissioner.*

Sec. 282. *The review of an ORSA Summary Report, and any additional requests for information, must be made using similar procedures currently used in analysis and examination of multistate or global insurers and insurance groups.*

Sec. 283. *1. Except as otherwise provided in this section and NRS 239.0115 and section 273 of this act, any documents, materials and other information, including an ORSA Summary Report, in the possession of or control of the Division that are obtained by, created by or disclosed to the Commissioner or any other person in accordance with the provisions of sections 270 to 289, inclusive, of this act are proprietary and constitute trade secrets. All such documents, materials or other information are:*

(a) Confidential by law and privileged;

(b) Not subject to subpoena; and

(c) Not subject to discovery or admissible in evidence in any private civil action.

2. Notwithstanding any provision of subsection 1 to the contrary, the Commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer.

Sec. 284. *Neither the Commissioner, nor any other person who received documents, materials or other information received pursuant to sections 270 to 289, inclusive, of this act, through examination or otherwise, while acting pursuant to the authority of the Commissioner or with whom such documents, materials and other information are shared in accordance with the provisions of those sections, is allowed or required to testify in any private civil action concerning any such documents, materials and information subject to section 283 of this act.*

Sec. 285. *To assist the performance of the Commissioner's regulatory duties, the Commissioner:*

1. May, upon request, share documents, materials and other information received pursuant to sections 270 to 289, inclusive, of this act, including, without limitation, any documents, materials and information subject to section 283 of this act and any proprietary and trade secret documents and materials, with other state, federal and international financial regulatory agencies, including members of any supervisory college, as defined in NRS 692C.359, with the NAIC and with third-party consultants designated by the Commissioner, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials and other information received pursuant to sections 270 to 289, inclusive, of this act and has verified in writing the legal authority to maintain confidentiality; and

2. May receive documents, materials and other information received pursuant to sections 270 to 289, inclusive, of this act, including, without

limitation, documents, materials and information which are otherwise confidential and privileged, and proprietary and trade secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college, as defined in NRS 692C.359, and from the NAIC, and shall maintain as confidential or privileged any such documents, materials and information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information.

3. Shall enter into a written agreement with the NAIC or a third-party consultant governing the sharing and use of information provided pursuant to sections 270 to 289, inclusive, of this act, that must:

(a) Specify procedures and protocols regarding the confidentiality and security of the information shared with the NAIC or third-party consultant, including procedures and protocols for sharing by the NAIC with other state regulators from states in which the insurance group has domiciled insurers. The agreement must provide that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials and other information and has verified, in writing, the legal authority to maintain confidentiality;

(b) Specify that ownership of the information shared with the NAIC or third-party consultant remains with the Commissioner and use of the information by the NAIC or third-party consultant is subject to the discretion of the Commissioner;

(c) Prohibit the NAIC or third-party consultant from storing the information in a permanent database after the underlying analysis is completed;

(d) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC or third-party consultant is subject to a request or subpoena to the NAIC or a third-party consultant for disclosure or production;

(e) Require the NAIC or third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or third-party consultant; and

(f) In the case of an agreement involving a third-party consultant, provide for the insurer's written consent.

Sec. 286. *The sharing of documents, materials and other information by the Commissioner pursuant to sections 270 to 289, inclusive, of this act does not constitute a delegation of regulatory authority or rulemaking, and the Commissioner is solely responsible for the administration, execution and enforcement of the provisions of sections 270 to 289, inclusive, of this act.*

Sec. 287. *No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade secrets materials or other information shall occur as a result of the disclosure of such documents,*

materials and information to the Commissioner in accordance with the provisions of sections 283 to 288, inclusive, of this act or as a result of sharing as authorized in accordance with the provisions of sections 270 to 289, inclusive, of this act.

Sec. 288. *Documents, materials or other information in the possession or control of the NAIC or a third-party consultant in accordance with the provisions of sections 270 to 289, inclusive, of this act are:*

1. Confidential by law and privileged;

2. Not subject to the provisions of chapter 239 of NRS;

3. Not subject to subpoena; and

4. Not subject to discovery or admissible in evidence in any private civil action.

Sec. 289. *1. The failure to file an ORSA Summary Report required by sections 270 to 289, inclusive, of this act, within the time specified for the filing is a violation of those sections.*

2. Except as otherwise provided in subsection 3, if an insurer or group insurer fails, without just cause, to file an ORSA Summary Report required by sections 270 to 289, inclusive, of this act, the insurer or group insurer, as applicable, shall, after receiving notice and a hearing, pay a civil penalty of $1,500 for each day the insurer or group insurer fails to file the ORSA Summary Report. The civil penalty may be recovered in a civil action brought by the Commissioner. Any civil penalty paid pursuant to this subsection must be deposited in the State General Fund.

3. The maximum civil penalty that may be imposed pursuant to subsection 2 is $100,000. The Commissioner may reduce the amount of the civil penalty if the insurer or group insurer demonstrates to the satisfaction of the Commissioner that the payment of the civil penalty would impose a financial hardship on the insurer or group insurer, as applicable.

Sec. 290. NRS 692C.020 is hereby amended to read as follows:

692C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 692C.025 to 692C.110, inclusive, *and sections 265 to 269, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 291. NRS 692C.180 is hereby amended to read as follows:

692C.180 1. No person other than the issuer may make a tender for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire or acquire in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, the person would directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the insurer, nor may any person enter into an agreement to merge with or otherwise acquire control of a domestic insurer, unless, at the time any such offer, request or invitation is made or any such agreement is entered into, or before the acquisition of those securities if no offer or agreement is involved, the person has filed with the Commissioner and has sent to the insurer, and the insurer has sent to its shareholders, a

statement containing the information required by NRS 692C.180 to 692C.250, inclusive, and, except as otherwise provided in subsection 4, the offer, request, invitation, agreement or acquisition has been approved by the Commissioner in the manner prescribed in this chapter.

2. The *pre-acquisition* statement required by subsection 1 must be filed with the Commissioner at least 60 days before the proposed date of the acquisition. The statement must set forth, without limitation, the information required by NRS 692C.254. A person who fails to comply with this subsection is subject to the penalties set forth in subsections 6 and 7 of NRS 692C.258.

3. A person controlling a domestic insurer who is seeking to divest his or her controlling interest in the domestic insurer shall file with the Commissioner, and send to the insurer, notice of the proposed divestiture at least 30 days before the proposed divestiture, unless a *pre-acquisition* statement has been filed pursuant to subsection 1 concerning the proposed transaction. Notice filed pursuant to this subsection is confidential until the conclusion, if any, of the divestiture unless the Commissioner determines that such confidentiality will interfere with the enforcement of this section.

4. Upon receiving a *pre-acquisition* statement or notice pursuant to this section by a person seeking to acquire a controlling interest in a domestic insurer or divest a controlling interest in a domestic insurer, the Commissioner shall determine whether or not the person will be required to file for and obtain the approval of the Commissioner for the acquisition or divestiture. As soon as practicable after making that determination, the Commissioner shall notify the person of the results of the determination.

5. For purposes of this section, a domestic insurer includes any other person controlling a domestic insurer unless the other person is directly or through affiliates primarily engaged in a business other than the business of insurance. If a person is directly or through affiliates primarily engaged in a business other than the business of insurance, the person shall, at least 60 days before the proposed effective date of the acquisition, file a notice of intent to acquire with the Commissioner setting forth the information required by NRS 692C.254.

6. *If a transaction is governed by the provisions of this section, the acquiring person shall also file a pre-acquisition notification with the Commissioner which must contain the information set forth in subsection 1. The Commissioner shall specify by regulation the period within which the notification must be filed. A person who fails to comply with this subsection or any regulations adopted pursuant thereto may be subject to the penalties set forth in subsection 7 of NRS 692C.258.*

7. As used in this section, "person" does not include a securities broker who, in the regular course of business as a broker, holds less than 20 percent of the voting securities of an insurer or of any person who controls an insurer.

Sec. 292. NRS 692C.190 is hereby amended to read as follows:

692C.190 The *pre-acquisition* statement to be filed with the Commissioner hereunder shall be made under oath or affirmation and shall contain the following:

1. The name and address of each person (hereinafter called the "acquiring party") by whom or on whose behalf the merger or other acquisition of control referred to in subsection 1 of NRS 692C.180 is to be effected and, if such person is:

(a) An individual, the individual's principal occupation and all offices and positions held by the individual during the past 5 years, and any conviction of crimes other than for minor traffic violations during the past 10 years.

(b) Not an individual, a report of the nature of its business operations during the past 5 years or for such lesser period as such person and any predecessors thereof shall have been in existence, together with an informative description of the business intended to be done by such person and such person's subsidiaries, and a list of all individuals who are or who have been selected to become directors or executive officers of such person or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by paragraph (a).

2. The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration, but where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests.

3. Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding 5 fiscal years of each such acquiring party (or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence), and similar unaudited information as of a date not earlier than 90 days prior to the filing of the statement.

4. Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

5. The number of shares of any security referred to in subsection 1 of NRS 692C.180 which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement or acquisition referred to in subsection 1 of NRS 692C.180 and a statement as to the method by which the fairness of the proposal was determined.

6. The amount of each class of any security referred to in subsection 1 of NRS 692C.180 which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

7. A full description of any contracts, arrangements or understandings with respect to any security referred to in subsection 1 of NRS 692C.180 in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been made.

8. A description of the purchase of any security referred to in subsection 1 of NRS 692C.180 during the 12 calendar months preceding the filing of the statement by any acquiring party, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid therefor.

9. A description of any recommendations to purchase any security referred to in subsection 1 of NRS 692C.180 made during the 12 calendar months preceding the filing of the statement by any acquiring party, or by anyone based upon interviews with or at the suggestion of such acquiring party.

10. Copies of all tenders, offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection 1, and, if distributed, additional soliciting material relating thereto.

11. The terms of any agreement, contract or understanding made with any broker-dealer, as to solicitation of securities referred to in subsection 1 of NRS 692C.180, for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

12. *An agreement by the person required to file the statement that the person will file the annual report of enterprise risk required by NRS 692C.290 while control exists.*

13. An acknowledgment by the person required to file the statement that the person, and all subsidiaries within its control in the insurance holding company system, will provide information to the Commissioner upon request as necessary to evaluate enterprise risk to the insurer.

14. Such additional information as the Commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policy holders and security holders of the insurer or for the protection of the public interest.

➥ If the person required to file the statement referred to in this section is a partnership, limited partnership, syndicate or other group, the Commissioner may require that the information required by this section, be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member or person is a corporation or the person required to file the statement referred to in subsection 1 of NRS 692C.180 is a corporation, the Commissioner may require that the

information required by this section, be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the Commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the Commissioner and sent to such insurer within 2 business days after the person learns of such change. Such insurer shall send each such amendment to its shareholders.

Sec. 293. NRS 692C.200 is hereby amended to read as follows:

692C.200 If any offer, request, invitation, agreement or acquisition referred to in subsection 1 of NRS 692C.180 is proposed to be made by means of a registration statement under the Securities Act of 1933, 15 U.S.C. §§ 77a to 77aa, inclusive, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a et seq., or under any state law requiring similar registration or disclosure, the person required to file the *pre-acquisition* statement referred to in subsection 1 of NRS 692C.180 may utilize such documents in furnishing the information called for by that statement.

Sec. 294. NRS 692C.210 is hereby amended to read as follows:

692C.210 1. Except as otherwise provided in subsections 5 and 7, the Commissioner shall approve any merger or other acquisition of control referred to in subsection 1 of NRS 692C.180 unless, after a public hearing thereon, the Commissioner finds that:

(a) After the change of control, the domestic insurer specified in subsection 1 of NRS 692C.180 would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(b) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly;

(c) The financial condition of any acquiring party may jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining security holders who are unaffiliated with the acquiring party;

(d) The terms of the offer, request, invitation, agreement or acquisition referred to in subsection 1 of NRS 692C.180 are unfair and unreasonable to the security holders of the insurer;

(e) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer or not in the public interest;

(f) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer or of the public to permit the merger or other acquisition of control;

(g) If approved, the merger or acquisition of control would likely be harmful or prejudicial to the members of the public who purchase insurance; or

(h) The practices of the applicant in managing claims have evidenced a pattern in which the applicant has knowingly committed, or performed with such frequency as to indicate a general business practice of:

(1) Misrepresentation of pertinent facts or provisions of policies of insurance as they relate to coverages at issue;

(2) Failure to affirm or deny coverage of claims within a reasonable time after written proofs of loss have been furnished; or

(3) Failure to pay claims in a timely manner.

2. Except as otherwise provided in subsection 7, the public hearing specified in subsection 1 must be held within 30 days after the *pre-acquisition* statement required by subsection 1 of NRS 692C.180 has been filed, and at least 20 days' notice thereof must be given by the Commissioner to the person filing the statement. Not less than 7 days' notice of the public hearing must be given by the person filing the statement to the insurer and to any other person designated by the Commissioner. The insurer shall give such notice to its security holders. The Commissioner shall make a determination within 60 days after the conclusion of the hearing. If the Commissioner determines that an infusion of capital to restore capital in connection with the change in control is required, the requirement must be met within 60 days after notification is given of the determination. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent and any other person whose interests may be affected thereby may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and, in connection therewith, may conduct discovery proceedings in the same manner as is presently allowed in the district court of this state. All discovery proceedings must be concluded not later than 3 days before the commencement of the public hearing.

3. The Commissioner may retain at the acquiring party's expense attorneys, actuaries, accountants and other experts not otherwise a part of the staff of the Commissioner as may be reasonably necessary to assist the Commissioner in reviewing the proposed acquisition of control.

4. The period for review by the Commissioner must not exceed the 60 days allowed between the filing of the notice of intent to acquire required pursuant to subsection 5 of NRS 692C.180 and the date of the proposed acquisition if the proposed affiliation or change of control involves a financial institution, or an affiliate of a financial institution, and an insured.

5. When making a determination pursuant to paragraph (b) of subsection 1, the Commissioner:

(a) Shall require the submission of the information specified in subsection 2 of NRS 692C.254;

(b) Shall ~~[consider:~~

~~(1) The standards set forth in the Horizontal Merger Guidelines issued by the United States Department of Justice and the Federal Trade Commission and in effect at the time the Commissioner receives the statement required pursuant to subsection 1 of NRS 692C.180; and~~

~~(2) The]~~ *not disapprove the merger or other acquisition upon a finding that any of the* factors described in subsection ~~[3]~~ *6* of NRS 692C.256 ~~[;]~~ *exist;* and

(c) May condition approval of the merger or acquisition of control in the manner provided in subsection 4 of NRS 692C.258.

6. If, in connection with a change of control of a domestic insurer, the Commissioner determines that the person who is acquiring control of the domestic insurer must maintain or restore the capital of the domestic insurer in an amount that is required by the laws and regulations of this state, the Commissioner shall make the determination not later than 60 days after the notice of intent to acquire required pursuant to subsection 5 of NRS 692C.180 is filed with the Commissioner.

7. If the proposed merger or other acquisition of control referred to in subsection 1 of NRS 692C.180 requires the approval of the commissioner of more than one state, the public hearing required pursuant to subsection 1 may, upon the request of the person who filed the *pre-acquisition* statement required pursuant to subsection 1 of NRS 692C.180, be consolidated with the hearings required in other states. Not more than 5 days after receiving such a request, the Commissioner shall file with the ~~[National Association of Insurance Commissioners]~~ *NAIC* a copy of the *pre-acquisition* statement that was filed with the Commissioner pursuant to subsection 1 of NRS 692C.180 by the person requesting a consolidated hearing. The Commissioner may opt out of a consolidated hearing and, if the Commissioner elects to do so, he or she shall provide notice to the person requesting the consolidated hearing not more than 10 days after receiving the *pre-acquisition* statement filed pursuant to subsection 1 of NRS 692C.180. A consolidated hearing must be public and must be held within the United States before participating commissioners of the states in which the insurers are domiciled. Participating commissioners may hear and receive evidence at the hearing.

Sec. 295. NRS 692C.254 is hereby amended to read as follows:

692C.254 1. An acquisition to which the provisions of NRS 692C.252 apply is subject to an order issued pursuant to NRS 692C.258 unless:

(a) The acquiring person files a notice of acquisition pursuant to this section; and

(b) The waiting period specified in subsection 4 has expired.

2. The Commissioner shall prescribe the form of the notice required pursuant to subsection 1. A notice of acquisition filed pursuant to this section must include:

(a) The information required by the ~~[National Association of Insurance Commissioners]~~ *NAIC* relating to any market that, pursuant to subsection 5 of NRS 692C.252, causes the acquisition not to be exempted from the provisions of this section; and

(b) Any other material or information required by the Commissioner to determine whether or not the proposed acquisition, if consummated, would violate the provisions of NRS 692C.256.

3. The information required pursuant to subsection 2 may include the opinion of an economist relating to the competitive effect of the acquisition on the business of insurance in this state if the opinion is accompanied by a summary of the education and experience of the economist and a statement indicating the ability of the economist to provide an informed opinion.

4. Except as otherwise provided in subsection 5, the waiting period for an acquisition required pursuant to subsection 1 begins on the date the Commissioner receives the notice filed pursuant to subsection 1 and ends on the expiration of 30 days after that date or on the expiration of a shorter period prescribed by the Commissioner, whichever is earlier.

5. Before the expiration of the waiting period specified in subsection 4, the Commissioner may, not more than once, require a person to submit additional information relating to the proposed acquisition. If the Commissioner requires the submission of additional information, the waiting period for the acquisition ends upon the expiration of 30 days after the Commissioner receives the additional information or upon the expiration of a shorter period prescribed by the Commissioner, whichever is earlier.

Sec. 296. NRS 692C.256 is hereby amended to read as follows:

692C.256 1. The Commissioner may issue an order pursuant to NRS 692C.258 relating to an acquisition if:

(a) The effect of the acquisition may substantially lessen competition in any line of insurance in this state or tend to create a monopoly; or

(b) The acquiring person fails to file sufficient materials or information pursuant to NRS 692C.254.

2. In determining whether ~~[to issue an order pursuant to subsection 1,]~~ *a proposed acquisition would violate the competitive standard,* the Commissioner shall consider the ~~[standards set forth in the Horizontal Merger Guidelines issued by the United States Department of Justice and the Federal Trade Commission and in effect at the time the Commissioner receives the notice required pursuant to NRS 692C.254.~~

~~3.]~~ *following:*

(a) Any acquisition to which the provisions of NRS 692C.252 apply involving two or more insurers competing in the same market is prima facie evidence of a violation of the competitive standard if:

(1) The market is highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	*Insurer B*
4 percent	*4 percent or more*
10 percent	*2 percent or more*
15 percent	*1 percent or more*

(2) The market is not highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	*Insurer B*
5 percent	*5 percent or more*
10 percent	*4 percent or more*
15 percent	*3 percent or more*
19 percent	*1 percent or more*

(b) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market, from the two largest to the eight largest, has increased by 7 percent or more of the total market over a period of time extending from any base year 5 to 10 years before the acquisition up to the time of the acquisition. Any acquisition to which the provisions of NRS 692C.252 apply, involving two or more insurers competing in the same market is prima facie evidence of a violation of the competitive standard if:

(1) There is a significant trend toward increased concentration in the market;

(2) One of the insurers involved is one of the insurers in a grouping of large insurers showing the requisite increase in the market share; and

(3) Another involved insurer's market share is 2 percent or more.

3. Percentages not shown in the tables in paragraph (a) of subsection 2 must be interpolated proportionately to the percentages that are shown.

4. If more than two insurers are involved in an acquisition, exceeding the total of the two columns in the relevant table of paragraph (a) of subsection 2 is prima facie evidence of a violation of the competitive standard. For the purposes of this subsection, the insurer with the largest market share shall be deemed to be Insurer A.

5. Irrespective of whether an acquisition constitutes a prima facie violation of the competitive standard set forth in this section, the Commissioner, or a party to the acquisition, may establish the presence or absence of the requisite anticompetitive effect based upon other substantial evidence, including, without limitation, market shares, volatility of ranking market leaders, the number of competitors, concentrations, trend concentration in the industry and ease of entry and exit in the market.

6. The Commissioner shall, before issuing an order specified in subsection 1, consider:

(a) If:

(1) The acquisition creates substantial economies of scale or economies in the use of resources that may not be created in any other manner; and

(2) The public benefit received from those economies exceeds the public benefit received from not lessening competition; or

(b) If:

(1) The acquisition substantially increases the availability of insurance; and

(2) The public benefit received by that increase exceeds the public benefit received from not lessening competition.

~~[4.]~~ *7.* The public benefits set forth in subparagraph 2 of paragraphs (a) and (b) of subsection ~~[3]~~ *6* may be considered together, as applicable, in assessing whether the public benefits received from the acquisition exceed any benefit to competition that would arise from disapproving the acquisition.

~~[5.]~~ *8.* The Commissioner has the burden of establishing that the acquisition will result in a violation of the competitive standard set forth in subsection 1.

9. An order may not be entered in accordance with NRS 692C.258 if:

(a) The acquisition will yield substantial economies of scale or economies in resource utilization that cannot be feasibly achieved in any other way, and the public benefits which would arise from such economies exceed the public benefits which would not arise from lessening competition; or

(b) The acquisition will substantially increase the availability of insurance, and the public benefits of the increase exceed the public benefits which would arise from not lessening competition.

10. As used in this section:

(a) "Highly concentrated market" means a market in which the combined market share of the four largest insurers totals 75 percent or more of the total market.

(b) "Insurer" includes any company or group of companies under common management, ownership or control.

(c) "Market" means the relevant product and geographical markets. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, such line being that used in the annual statement required to be filed by an insurer doing business in this State and the relevant geographical market is assumed to be this State.

Sec. 297. NRS 692C.260 is hereby amended to read as follows:

692C.260 1. Every insurer which is authorized to do business in this state and which is a member of an insurance holding company system shall register with the Commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by a statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in NRS 692C.260 to 692C.350, inclusive.

2. Any insurer which is subject to registration under NRS 692C.260 to 692C.350, inclusive, shall register not later than September 1, 1973, or 15 days after it becomes subject to registration, whichever is later, *and*

annually thereafter by June 30 of each year for the immediately preceding calendar year, unless the Commissioner for good cause shown extends the time for registration. The Commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by the insurance company with the insurance regulatory authority of domiciliary jurisdiction.

3. Any person within an insurance holding company system subject to registration shall, upon request by an insurer, provide complete and accurate information to the insurer if the information is reasonably necessary to enable the insurer to comply with the provisions of this section.

Sec. 298. NRS 692C.270 is hereby amended to read as follows:

692C.270 Every insurer subject to registration shall file:

1. A registration statement ~~[on a form provided by]~~ *with* the Commissioner, *on a form and in a format prescribed by the Commissioner,* which must contain current information about:

(a) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer.

(b) The identity of every member of the insurance holding company system.

(c) The following agreements in force, relationships subsisting and transactions currently outstanding between the insurer and its affiliates:

(1) Loans, other investments or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates.

(2) Purchases, sales or exchanges of assets.

(3) Transactions not in the ordinary course of business.

(4) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business.

(5) All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles.

(6) Reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company.

(7) Any dividend or other distribution made to a shareholder.

(8) Any consolidated agreement to allocate taxes.

(d) Any pledge of the insurer's stock, including the stock of any subsidiary or controlling affiliate of the insurer, for a loan made to any member of the insurance holding company system.

(e) Any other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner.

2. A statement verifying that:

(a) The board of directors of the insurer oversees the corporate governance and internal controls of the insurer; and

(b) Officers or senior management of the insurer have approved, implemented and continue to maintain and monitor the corporate governance and internal controls of the insurer.

3. Financial statements of the insurance holding company system and all affiliates, if requested by the Commissioner. This requirement may be satisfied by providing the most recent statement filed with the United States Securities and Exchange Commissioner pursuant to the Securities Act of 1933, 15 U.S.C. §§ 78a et seq., by the insurance holding company system or its parent corporation.

Sec. 299. NRS 692C.290 is hereby amended to read as follows:

692C.290 1. Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on forms provided by the Commissioner within 15 days after the end of the month in which it learns of each such change or addition, and not less often than annually, except that, subject to the provisions of NRS 692C.390, each registered insurer shall report all dividends and other distributions to shareholders within 5 business days following the declaration and 10 days before payment.

2. *The principal of a registered insurer shall file an annual report of enterprise risk pursuant to this subsection.* If the principal of a registered insurer does not file a report of enterprise risk with the commissioner of the lead state of the insurance company system, as determined by the most recent edition of the Financial Analysis Handbook, published by the ~~[National Association of Insurance Commissioners,]~~ *NAIC,* in a calendar year, the principal shall file a report of enterprise risk with the Commissioner. The principal shall include in the report the material risks within the insurance holding company system that, to the best of his or her knowledge and belief, may pose enterprise risk to the registered insurer.

3. Whenever it appears to the Commissioner that any person has committed a violation of subsection 2 which prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for conducting an examination of the insurer pursuant to NRS 679B.230 to 679B.287, inclusive.

Sec. 300. NRS 692C.330 is hereby amended to read as follows:

692C.330 1. Any person may file with the Commissioner:

(a) A disclaimer of affiliation with any authorized insurer specified in the disclaimer; or

(b) A request for a termination of registration on the basis that the person does not, or will not after taking an action specified in the request for termination, control another person specified in the request.

2. A disclaimer of affiliation or request for a termination of registration specified in subsection 1 may be filed by the authorized insurer or any

member of an insurance holding company system. A disclaimer of affiliation or request for a termination of registration filed pursuant to subsection 1 must include:

(a) A statement indicating the number of authorized, issued and outstanding voting securities of the person specified in the disclaimer of affiliation or request for a termination of registration;

(b) A statement indicating the number and percentage of shares of the person specified in the disclaimer of affiliation or request for a termination of registration that are owned or beneficially owned by the person disclaiming control, and the number of those shares for which the person disclaiming control has a direct or indirect right to acquire;

(c) A statement setting forth all material relationships and bases for affiliation between the person specified in the disclaimer of affiliation or request for a termination of registration and the person and any affiliate of the person who is disclaiming control of the person specified in the disclaimer of affiliation or request for a termination of registration; and

(d) An explanation of why the person who is disclaiming control does not control the person specified in the disclaimer of affiliation or request for a termination of registration.

3. A request for a termination of registration filed pursuant to subsection 1 shall be deemed granted upon filing unless the Commissioner, within 30 days after receipt of the request for a termination of registration, notifies the person, authorized insurer or member of an insurance holding company system that the request is denied.

4. ~~[After a disclaimer of affiliation has been filed, the insurer is relieved of any duty to register or report under NRS 692C.260 to 692C.350, inclusive, which may arise out of the insurer's relationship with the person unless the Commissioner disallows the disclaimer. The Commissioner may disallow the disclaimer only after furnishing all parties in interest with a notice and opportunity to be heard and after making specific findings of fact to support the disallowance.]~~ *A disclaimer of affiliation filed pursuant to subsection 1 shall be deemed granted unless the Commissioner, within 30 days after receipt of a complete disclaimer of affiliation, notifies the filing party that the disclaimer of affiliation is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party is relieved of its duty to register pursuant to NRS 692C.260 to 692C.350, inclusive, if approval of the disclaimer of affiliation has been granted by the Commissioner, or if the disclaimer of affiliation is deemed approved.*

Sec. 301. NRS 692C.350 is hereby amended to read as follows:

692C.350 1. The failure to file a registration statement or *summary or* any amendment thereto *, or a report of enterprise risk,* required by NRS 692C.260 to 692C.350, inclusive, within the time specified for the filing is a violation of NRS 692C.260 to 692C.350, inclusive.

2. Except as otherwise provided in subsection 3, if an insurer fails, without just cause, to file a registration statement required pursuant to NRS 692C.270 ~~[,]~~ *to 692C.350, inclusive,* the insurer shall, after receiving notice and a hearing, pay a civil penalty of $100 for each day the insurer fails to file the registration statement. The civil penalty may be recovered in a civil action brought by the Commissioner. Any civil penalty paid pursuant to this subsection must be deposited in the State General Fund.

3. The maximum civil penalty that may be imposed pursuant to subsection 2 is $20,000. The Commissioner may reduce the amount of the civil penalty if the insurer demonstrates to the satisfaction of the Commissioner that the payment of the civil penalty would impose a financial hardship on the insurer.

4. Any officer, director or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statement, false report or false filing with the intent to deceive the Commissioner in the performance of his or her duties pursuant to NRS 692C.260 to 692C.350, inclusive, is guilty of a category D felony and shall be punished as provided in NRS 193.130. The officer, director or employee is personally liable for any fine imposed against the officer, director or employee pursuant to that section.

Sec. 302. NRS 692C.380 is hereby amended to read as follows:

692C.380 For purposes of NRS 692C.360 to 692C.400, inclusive, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the ~~[greater]~~ *lesser* of:

1. Ten percent of the insurer's surplus as regards policyholders as of December 31 next preceding the dividend or distribution; or

2. The net gain from operations of the insurer, if the insurer is a life insurer, or the net income, not including realized capital gains if the insurer is not a life insurer, for the 12-month period ending December 31 next preceding the dividend or distribution,

➥ but does not include pro rata distributions of any class of the insurer's own securities.

Sec. 303. NRS 692C.420 is hereby amended to read as follows:

692C.420 1. Except as otherwise provided in NRS 239.0115, all information, documents and copies thereof obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to NRS 692C.410, and all information reported pursuant to *subsections 12 and 13 of NRS 692C.190 and* NRS 692C.260 to 692C.350, inclusive, ~~[must be given]~~ *is* confidential *,* ~~[treatment and]~~ is not subject to subpoena *, is not subject to discovery, is not admissible in evidence in any private civil action* and must not be made public by the Commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the

Commissioner, after giving the insurer and its affiliates who would be affected thereby notice and an opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event he or she may publish all or any part thereof in any manner as he or she may deem appropriate.

2. The Commissioner or any person who receives any documents, materials or other information while acting under the authority of the Commissioner must not be permitted or required to testify in a private civil action concerning any information, document or copy thereof specified in subsection 1.

3. The Commissioner may share or receive any information, document or copy thereof specified in subsection 1 in accordance with NRS 679B.122. The sharing or receipt of the information, document or copy pursuant to this subsection does not waive any applicable privilege or claim of confidentiality in the information, document or copy.

4. The Commissioner shall enter into a written agreement with the NAIC governing the sharing and use of information specified in subsection 1 that must:

(a) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries, including procedures and protocols for sharing by the NAIC with other state, federal and international regulators;

(b) Specify that ownership of the information shared with the NAIC and its affiliates and subsidiaries remains with the Commissioner and the NAIC's use of the information is subject to the discretion of the Commissioner;

(c) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC is subject to a request or subpoena to the NAIC for disclosure or production; and

(d) Require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates or subsidiaries may be required to disclose confidential information about the insurer shared with the NAIC and its affiliates and subsidiaries.

5. The sharing of information by the Commissioner does not constitute a delegation of regulatory authority or rulemaking, and the Commissioner is solely responsible for the administration, execution and enforcement of the provisions of this section.

6. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the Commissioner in accordance with this section or as a result of sharing as authorized in this section.

7. Documents, materials and other information in the possession or control of the NAIC in accordance with this section are:

(a) Confidential by law and privileged;

(b) Not subject to the provisions of chapter 239 of NRS;

(c) Not subject to subpoena; and

(d) Not subject to discovery or admissible in evidence in any private civil action.

Sec. 304. NRS 692C.485 is hereby amended to read as follows:

692C.485 1. A director or officer of an insurance holding company system who knowingly violates, or knowingly participates in or assents to a violation of, NRS 692C.350, 692C.360, 692C.363 or 692C.390, *or section 289 of this act,* or who knowingly ~~[permits]~~ *allows* any officer or agent of the insurance holding company to engage in a transaction in violation of NRS 692C.360 or 692C.363 or to pay a dividend or make an extraordinary distribution in violation of NRS 692C.390 shall pay, after receiving notice and a hearing before the Commissioner, a fine of not more than $10,000 for each violation. In determining the amount of the fine, the Commissioner shall consider the appropriateness of the fine in relation to:

(a) The gravity of the violation;

(b) The history of any previous violations committed by the director or officer; and

(c) Any other matters as justice may require.

2. Whenever it appears to the Commissioner that an insurer or any director, officer, employee or agent of the insurer has engaged in a transaction or entered into a contract to which the provisions of NRS 692C.363 apply and for which the insurer has not obtained the Commissioner's approval, the Commissioner may order the insurer to cease and desist immediately from engaging in any further activity relating to the transaction or contract. In addition to issuing such an order, the Commissioner may order the insurer to rescind the contract and return each party to the contract to the position the party was in before the execution of the contract if the issuing of the order is in the best interest of:

(a) The policyholders or creditors of the insurer; or

(b) The members of the general public.

Sec. 305. NRS 693A.030 is hereby amended to read as follows:

693A.030 1. Except as otherwise provided in subsections 2, 3 and 4, a domestic insurer formed before, on or after January 1, 1972, shall not engage in any business other than the insurance business and in business activities reasonably and necessarily incidental to the insurance business.

2. A title insurer may also engage in business as an escrow agent.

3. Any insurer may also engage in business activities reasonably related to the management, supervision, servicing of and protection of its interests as to its lawful investments, and to the full utilization of its facilities.

4. An insurer may own subsidiaries which may engage in such businesses as are provided for in ~~[NRS 682A.130.]~~ *section 174 of this act.*

Sec. 306. Chapter 694C of NRS is hereby amended by adding thereto the provisions set forth as sections 307, 308 and 309 of this act.

Sec. 307. *"State-chartered risk retention group" means any risk retention group, as defined in NRS 695E.110, that is formed in accordance with the laws of this State as an association captive insurer.*

Sec. 308. *1. In addition to the information required pursuant to NRS 694C.210, a state-chartered risk retention group being formed as an association captive insurer must submit to the Commissioner in summary form:*

(a) The identities of:

(1) All members of the group;

(2) All organizers of the group;

(3) Those persons who will provide administrative services to the group; and

(4) Any person who will influence or control the activities of the group;

(b) The amount and nature of initial capitalization of the group;

(c) The coverages to be offered by the group; and

(d) Each state in which the group intends to operate.

2. Before it may transact insurance in any state, the state-chartered risk retention group must submit to the Commissioner, for approval by the Commissioner, a plan of operation. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation within 10 days after the change. The group shall not offer any additional kinds of liability insurance, in this State or in any other state, until a revision of the plan is approved by the Commissioner.

3. A state-chartered risk retention group chartered in this State must file with the Commissioner on or before March 1 of each year a statement containing information concerning the immediately preceding year which must:

(a) Be submitted in a form prescribed by the National Association of Insurance Commissioners;

(b) Be prepared in accordance with the Annual Statement Instructions for the type of insurer to be reported on as adopted by the National Association of Insurance Commissioners for the year in which the insurer files the statement;

(c) Utilize accounting principles in a manner that remains consistent among financial statements submitted each year and that are substantively identical to:

(1) Generally accepted accounting principles, including any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner; or

(2) Statutory accounting principles, as described in the Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners effective on January 1, 2001, and as amended by the National Association of Insurance Commissioners after that date; and

(d) Be submitted electronically, if required by the Commissioner.

4. The Commissioner shall transmit to the National Association of Insurance Commissioners a copy of:

(a) All information submitted by a state-chartered risk retention group to the Commissioner pursuant to subsections 1 and 3; and

(b) Any revisions to a plan of operation submitted to the Commissioner pursuant to subsection 3.

Sec. 309. *1. The board of directors of a risk retention group must have a majority of independent directors. If the risk retention group is a reciprocal risk retention group, the attorney-in-fact is required to adhere to the same standards regarding independence of operation and governance as imposed on the risk retention group's board of directors or subscribers advisory committee under this section, and, to the extent permissible by state law, service providers of a reciprocal risk retention group must contract with the risk retention group and not the attorney-in-fact.*

2. No director qualifies as independent unless the board of directors affirmatively determines that the director has no material relationship with the risk retention group. Each risk retention group shall disclose these determinations to its domestic regulator at least annually. For the purposes of this subsection, any person that is a direct or indirect owner of or subscriber in the risk retention group, or is an officer, director or employee of such an owner or insured, unless some other position of such officer, director or employee constitutes a material relationship, as contemplated by 15 U.S.C. § 3901(a)(4)(E)(ii), is considered to be independent.

3. The term of any material service provider contract with a risk retention group must not exceed 5 years. Any such contract, or its renewal, must require the approval of the majority of the risk retention group's independent directors. The risk retention group's board of directors shall have the right to terminate any service provider, audit or actuarial contracts at any time for cause after providing adequate notice as defined in the contract. The service provider contract is deemed material if the amount to be paid for such contract is greater than, or equal to, 5 percent of the risk retention group's annual gross written premium or 2 percent of its surplus, whichever is greater. No service provider contract which creates a material relationship may be entered into unless the risk retention group has notified the Commissioner, in writing, of its intention to enter into such a transaction at least 30 days before and the Commissioner has not disapproved it within such period. For the purposes of this subsection:

(a) "Lawyer" does not include defense counsel retained by the risk retention group to defend claims, unless the amount of fees paid to such lawyer creates a material relationship.

(b) "Service provider" includes, without limitation, a captive manager, auditor, accountant, actuary, investment advisor, lawyer, managing general underwriter or other party responsible for underwriting, determination of

rates, collection of premium, adjusting and settling claims or the preparation of financial statements.

4. The board of directors shall adopt a written policy in the plan of operation as approved by the board that requires the board to:

(a) Ensure that all owners and insureds of the risk retention group receive evidence of ownership interest;

(b) Develop a set of governance standards applicable to the risk retention group;

(c) Oversee the evaluation of the risk retention group's management, including, without limitation, the performance of the captive manager, managing general underwriter or other party or parties responsible for underwriting, determination of rates, collection of premium, adjusting or settling claims or the preparation of financial statements;

(d) Review and approve the amount to be paid for all material service providers; and

(e) At least annually, review and approve:

(1) The risk retention group's goals and objectives relevant to the compensation of officers and service providers;

(2) The officer's and service provider's performance in light of those goals and objectives; and

(3) The continued engagement of the officers and material service providers.

5. A risk retention group must have an audit committee composed of at least three independent board members. A board member that is not independent may participate in the activities of the audit committee if invited by the members, but cannot be a member of such committee.

6. An audit committee established pursuant to subsection 5 must have a written charter that defines the committee's purpose, which must include, without limitation:

(a) Assisting the board of directors with oversight of:

(1) The integrity of financial statements;

(2) Compliance with legal and regulatory requirements; and

(3) The qualifications, independence and performance of the independent auditor and actuary;

(b) Discussing the annual audited financial statements and quarterly financial statements with management;

(c) Discussing the annual audited financial statements and, if advisable, its quarterly financial statements with its independent auditor;

(d) Discussing policies with respect to risk assessment and risk management;

(e) Meeting separately and periodically, either directly or through a designated representative of the committee, with management and independent auditors;

(f) Reviewing with the independent auditor any audit problems or difficulties and management's response;

(g) Setting clear hiring policies of the risk retention group as to the hiring of employees or former employees of the independent auditor;

(h) Requiring the external auditor to rotate the lead, or coordinating, audit partner having primary responsibility for the risk retention group's audit as well as the audit partner responsible for reviewing that audit so that one such person does not perform audit services for more than 5 consecutive fiscal years; and

(i) Reporting regularly to the board of directors.

7. The domestic regulator may waive the requirement to establish an audit committee composed of independent board members if the risk retention group is able to demonstrate to the domestic regulator that it is impracticable to do so and the board of directors itself is otherwise able to accomplish the purposes of the audit committee.

8. The board of directors shall adopt and disclose governance standards which must include:

(a) A process by which the directors are elected by the owners and insureds;

(b) Qualification standards;

(c) Responsibilities;

(d) Access to management and, as necessary and appropriate, independent advisors;

(e) Compensation;

(f) Orientation and continuing education;

(g) The policies and procedures to be followed for management succession; and

(h) The policies and procedures to be followed for annual performance evaluation of the board.

➥ *As used in this subsection, "disclose" means making information available through electronic or other means, including, without limitation, posting such information on the risk retention group's Internet website and providing such information to its members and insureds upon request.*

9. The board of directors shall adopt and disclose a code of business conduct and ethics for directors, officers and employees which must include, without limitation:

(a) Conflicts of interest;

(b) Matters covered under the corporate opportunities doctrine within the state of domicile;

(c) Confidentiality;

(d) Fair dealing;

(e) Protection and proper use of assets of the risk retention group;

(f) Compliance with all applicable laws, rules and regulations; and

(g) Requiring the reporting of any illegal or unethical behavior which affects the operation of the risk retention group.

➥ *The board shall promptly disclose any waivers of the code for directors or executive officers.*

10. The captive manager, president or chief executive officer of a risk retention group shall promptly notify the domestic regulator, in writing, if he or she becomes aware of any material noncompliance with this section.

11. As used in this section:

(a) "Board of directors" or "board" means the governing body of a risk retention group elected by the shareholders or members to establish policy, elect or appoint officers and committees and make other governing decisions.

(b) "Director" means a natural person designated in the articles of the risk retention group, or designated, elected or appointed by any other manner, name or title to act on the board.

(c) "Material relationship," of a person with a risk retention group, includes, without limitation:

(1) The receipt in any one 12-month period of compensation or payment of any other item of value by such person, a member of such person's immediate family or any business with which such person is affiliated from the risk retention group or a consultant or service provider to the risk retention group that is greater than or equal to 5 percent of the risk retention group's gross written premium for such 12-month period or 2 percent of its surplus, whichever is greater, as measured at the end of any fiscal quarter falling in such a 12-month period. Such person or immediate family member of such a person is not considered to be independent until 1 year after his or her compensation or payment from the risk retention group falls below the threshold set forth in this paragraph;

(2) A director or an immediate family member of a director who is affiliated with or employed in a professional capacity by a present or former internal or external auditor of the risk retention group is not considered to be independent until 1 year after the end of the affiliation, employment or auditing relationship.

(3) A director or immediate family member of a director who is employed as an executive officer of another company where any of the risk retention group's present executives serve on that company's board of directors is not considered to be independent until 1 year after the end of such service or the employment relationship.

Sec. 310. NRS 694C.010 is hereby amended to read as follows:

694C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 694C.020 to 694C.150, inclusive, *and section 307 of this act,* have the meanings ascribed to them in those sections.

Sec. 311. NRS 695E.140 is hereby amended to read as follows:

695E.140 1. A risk retention group seeking to be chartered in this State must obtain a certificate of authority pursuant to chapter 694C of NRS to transact liability insurance and, except as otherwise provided in this chapter, must comply with:

(a) All of the laws, regulations and requirements applicable to liability insurers in this State, unless otherwise approved by the Commissioner; and

(b) The provisions of NRS 695E.150 to 695E.210, inclusive, to the extent that those provisions do not limit or conflict with the provisions with which the group is required to comply pursuant to paragraph (a).

2. A risk retention group applying to be chartered in this State must submit to the Commissioner ~~[in summary form:~~

~~(a) The identities of:~~

~~(1) All members of the group;~~

~~(2) All organizers of the group;~~

~~(3) Those persons who will provide administrative services to the group; and~~

~~(4) Any person who will influence or control the activities of the group;~~

~~(b) The amount and nature of initial capitalization of the group;~~

~~(c) The coverages to be offered by the group; and~~

~~(d) Each state in which the group intends to operate.~~

~~3. Before it may transact insurance in any state, the risk retention group must submit to the Commissioner for approval by the Commissioner a plan of operation. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation within 10 days after the change. The group shall not offer any additional kinds of liability insurance, in this State or in any other state, until a revision of the plan is approved by the Commissioner.~~

~~4. A risk retention group chartered in this State must file with the Commissioner on or before February 1 of each year a statement containing information concerning the immediately preceding year, which must be:~~

~~(a) Submitted in a form prescribed by the National Association of Insurance Commissioners;~~

~~(b) Prepared in accordance with the Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners and effective on January 1, 2001, and as amended by the National Association of Insurance Commissioners after that date; and~~

~~(c) Submitted on a diskette, if required by the Commissioner.~~

~~5. The Commissioner shall transmit to the National Association of Insurance Commissioners a copy of:~~

~~(a) All information submitted by a risk retention group to the Commissioner pursuant to subsections 2 and 4; and~~

~~(b) Any revisions to a plan of operation submitted to the Commissioner pursuant to subsection 3.~~

~~6.]~~ *an application for licensure as an association captive insurer in accordance with NRS 694C.210.*

3. A risk retention group chartered in a state other than Nevada that is seeking to transact insurance as a risk retention group in this State must comply with the provisions of NRS 695E.150 to 695E.210, inclusive ~~[.]~~ *, and section 308 of this act.*

Sec. 312. NRS 179.259 is hereby amended to read as follows:

179.259 1. Except as otherwise provided in subsections 3 *, 4* and ~~[4,]~~ *5,* 5 years after an eligible person completes a program for reentry, the court may order sealed all documents, papers and exhibits in the eligible person's record, minute book entries and entries on dockets, and other documents relating to the case in the custody of such other agencies and officers as are named in the court's order. The court may order those records sealed without a hearing unless the Division of Parole and Probation of the Department of Public Safety petitions the court, for good cause shown, not to seal the records and requests a hearing thereon.

2. If the court orders sealed the record of an eligible person, the court shall send a copy of the order to each agency or officer named in the order. Each such agency or officer shall notify the court in writing of its compliance with the order.

3. A professional licensing board is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.

4. *The Division of Insurance of the Department of Business and Industry is entitled, for the purpose of determining suitability for a license or liability to discipline for misconduct, to inspect and to copy from a record sealed pursuant to this section.*

5. A person may not petition the court to seal records relating to a conviction of a crime against a child or a sexual offense.

~~[5.]~~ *6.* As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Eligible person" means a person who has:

(1) Successfully completed a program for reentry to which the person participated in pursuant to NRS 209.4886, 209.4888, 213.625 or 213.632; and

(2) Been convicted of a single offense which was punishable as a felony and which did not involve the use or threatened use of force or violence against the victim. For the purposes of this subparagraph, multiple convictions for an offense punishable as a felony shall be deemed to constitute a single offense if those offenses arose out of the same transaction or occurrence.

(c) "Program for reentry" means:

(1) A correctional program for reentry of offenders and parolees into the community that is established by the Director of the Department of Corrections pursuant to NRS 209.4887; or

(2) A judicial program for reentry of offenders and parolees into the community that is established in a judicial district pursuant to NRS 209.4883.

(d) "Sexual offense" has the meaning ascribed to it in paragraph (b) of subsection 7 of NRS 179.245.

Sec. 313. NRS 179.301 is hereby amended to read as follows:

179.301 1. The State Gaming Control Board and the Nevada Gaming Commission and their employees, agents and representatives may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255, if the event or conviction was related to gaming, to determine the suitability or qualifications of any person to hold a state gaming license, manufacturer's, seller's or distributor's license or registration as a gaming employee pursuant to chapter 463 of NRS. Events and convictions, if any, which are the subject of an order sealing records:

(a) May form the basis for recommendation, denial or revocation of those licenses.

(b) Must not form the basis for denial or rejection of a gaming work permit unless the event or conviction relates to the applicant's suitability or qualifications to hold the work permit.

2. *The Division of Insurance of the Department of Business and Industry and its employees may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255, if the event or conviction was related to insurance, to determine the suitability or qualifications of any person to hold a license, certification or authorization issued in accordance with title 57 of NRS. Events and convictions, if any, which are the subject of an order sealing records may form the basis for recommendation, denial or revocation of those licenses, certifications and authorizations.*

3. A prosecuting attorney may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 if:

(a) The records relate to a violation or alleged violation of NRS 202.575; and

(b) The person who is the subject of the records has been arrested or issued a citation for violating NRS 202.575.

~~[3.]~~ *4.* The Central Repository for Nevada Records of Criminal History and its employees may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 that constitute information relating to sexual offenses, and may notify employers of the information in accordance with NRS 179A.180 to 179A.240, inclusive.

~~[4.]~~ *5.* Records which have been sealed pursuant to NRS 179.245 or 179.255 and which are retained in the statewide registry established pursuant to NRS 179B.200 may be inspected pursuant to chapter 179B of NRS by an officer or employee of the Central Repository for Nevada Records of Criminal History or a law enforcement officer in the regular course of his or her duties.

~~[5.]~~ *6.* The State Board of Pardons Commissioners and its agents and representatives may inquire into and inspect any records sealed pursuant to NRS 179.245 or 179.255 if the person who is the subject of the records has applied for a pardon from the Board.

~~[6.]~~ *7.* As used in this section:

(a) "Information relating to sexual offenses" means information contained in or concerning a record relating in any way to a sexual offense.

(b) "Sexual offense" has the meaning ascribed to it in NRS 179A.073.

Sec. 314. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087,

638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, *and sections 38, 283, 284 and 285 of this act,* sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 315. NRS 482.215 is hereby amended to read as follows:

482.215 1. 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 *or in an electronic format allowed pursuant to that section,* 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. 316. NRS 485.034 is hereby amended to read as follows:

485.034 "Evidence of insurance" means:

1. The form *, or electronic format,* provided by an insurer pursuant to NRS 690B.023 as evidence of a contract of insurance for a motor vehicle liability policy; or

2. The certificate of self-insurance issued to a self-insurer by the Department pursuant to NRS 485.380.

Sec. 317. NRS 485.187 is hereby amended to read as follows:

485.187 1. Except as otherwise provided in subsection 5, the owner of a motor vehicle shall not:

(a) Operate the motor vehicle, if it is registered or required to be registered in this State, without having insurance as required by NRS 485.185.

(b) Operate or knowingly permit the operation of the motor vehicle without having evidence of insurance of the operator or the vehicle in the vehicle.

(c) Fail or refuse to surrender, upon demand, to a peace officer or to an authorized representative of the Department the evidence of insurance. *The surrender, upon demand, of an evidence of insurance issued in electronic format does not constitute consent for a peace officer or authorized representative of the Department to access other contents of any device used*

to display the evidence of insurance and surrendered in compliance with this section.

(d) Knowingly permit the operation of the motor vehicle in violation of subsection 3 of NRS 485.186.

2. A person shall not operate the motor vehicle of another person unless the person who will operate the motor vehicle:

(a) First ensures that the required evidence of insurance is present in the motor vehicle ~~[,]~~ *or available electronically;* or

(b) Has his or her own evidence of insurance which covers that person as the operator of the motor vehicle.

3. Except as otherwise provided in subsection 4, any person who violates subsection 1 or 2 is guilty of a misdemeanor. Except as otherwise provided in this subsection, in addition to any other penalty, a person sentenced pursuant to this subsection shall be punished by a fine of not less than $600 nor more than $1,000 for each violation. The fine must be reduced to $100 for the first violation if the person obtains a motor vehicle liability policy by the time of sentencing, unless:

(a) The person has registered the vehicle as part of a fleet of vehicles pursuant to subsection 5 of NRS 482.215; or

(b) The person has been issued a certificate of self-insurance pursuant to NRS 485.380.

4. A court:

(a) Shall not find a person guilty or fine a person for a violation of paragraph (a), (b) or (c) of subsection 1 or for a violation of subsection 2 if the person presents evidence to the court that the insurance required by NRS 485.185 was in effect at the time demand was made for it.

(b) Except as otherwise provided in paragraph (a), may impose a fine of not more than $1,000 for a violation of paragraph (a), (b) or (c) of subsection 1, and suspend the balance of the fine on the condition that the person presents proof to the court each month for 12 months that the insurance required by NRS 485.185 is currently in effect.

5. The provisions of paragraphs (b) and (c) of subsection 1 do not apply if the motor vehicle in question displays a valid permit issued by the Department pursuant to subsection 1 or 2 of NRS 482.3955, or NRS 482.396 or 482.3965 authorizing the movement or operation of that vehicle within the State for a limited time.

Sec. 318. NRS 616B.336 is hereby amended to read as follows:

616B.336 1. Each self-insured employer shall furnish ~~[audited]~~ financial statements ~~[, certified by an auditor licensed to do business in this State,]~~ *audited by an independent certified public accountant, or foreign equivalent,* to the Commissioner annually within 120 days after the expiration of the self-insured employer's fiscal year ~~[.]~~ *, or within such other timeframe as the Commissioner may allow.*

2. The Commissioner may examine the records and interview the employees of each self-insured employer as often as the Commissioner

deems advisable to determine the adequacy of the deposit which the employer has made with the Commissioner, the sufficiency of reserves and the reporting, handling and processing of injuries or claims. The Commissioner shall examine the records for that purpose at least once every 3 years. The self-insured employer shall reimburse the Commissioner for the cost of the examination.

Sec. 319. NRS 682A.010, 682A.030, 682A.040, 682A.050, 682A.060, 682A.070, 682A.080, 682A.090, 682A.100, 682A.110, 682A.120, 682A.130, 682A.140, 682A.150, 682A.160, 682A.170, 682A.180, 682A.190, 682A.200, 682A.210, 682A.220, 682A.230, 682A.240, 682A.250, 682A.260, 682A.270, 682A.280, 682A.290, 689A.695, 689B.115 and 689C.250 are hereby repealed.

Sec. 320. This act becomes effective on July 1, 2015.

LEADLINES OF REPEALED SECTIONS

682A.010 Scope.

682A.030 General qualifications.

682A.040 Authorization and record of investments.

682A.050 Diversification.

682A.060 Public obligations.

682A.070 Obligations and stock of certain federal and international agencies.

682A.080 Corporate obligations.

682A.090 Definitions; net earnings.

682A.100 Preferred or guaranteed stock.

682A.110 Common stocks.

682A.120 Insurance stocks.

682A.130 Stocks of subsidiaries.

682A.140 Common trust funds; mutual funds.

682A.150 Bankers' acceptances and bills of exchange.

682A.160 Equipment trust obligations or certificates.

682A.170 Loans secured by policy.

682A.180 Collateral loans.

682A.190 Savings and share accounts.

682A.200 Miscellaneous investments; records.

682A.210 Special accounts.

682A.220 Special investments of title insurers.

682A.230 Mortgages and deeds of trust.

682A.240 Real property.

682A.250 Time limited for disposal of real property.

682A.260 Time limited for disposal of other ineligible property and securities.

682A.270 Failure to dispose of real property, personal property or securities: Effect; penalty.

682A.280 Prohibited investments and underwriting.

682A.290 Investments of foreign insurers.

689A.695 Information and documents to be made available to Commissioner; proprietary information.

689B.115 Access by Commissioner to information concerning rates; confidentiality of information.

689C.250 Information considered to be trade secret; exception.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 32 makes several changes to Senate Bill No. 67. The amendment: eliminates fees to surplus lines insurers that are preempted by the Dodd Frank Act and clarify fees that apply to certain reinsurers; adds provisions regarding the NAIC Credit for Reinsurance Model Law; incorporate provisions from the NAIC Standard Valuation Law Model Act; clarifies due dates for financial statements; clarifies that the Commissioner of Insurance may refuse to issue a license or take administrative action if an applicant or licensee fails to pay any tax required by law; ensures consumers are given notice about changes to individual, nongrandfathered plans at the same time that the rate information becomes public; adds provisions regarding the Standard Nonforfeiture Law for Life Insurance Model Act; adds language and clarifies applicability of words and terms related to the NAIC Risk Management and Own Risk and Solvency Model Act; and adds confidentiality provisions under the Holding Company Act.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 81.

Bill read second time.

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

Amendment No. 467.

SUMMARY—Revises provisions relating to the management and appropriation of water. (BDR 48-367)

AN ACT relating to water; revising provisions relating to the designation and regulation of groundwater basins by the State Engineer; revising provisions relating to the appropriation of water for beneficial use; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the State Engineer has various powers and duties with respect to the management of the water resources of this State, including the groundwater. Existing law: (1) authorizes the State Engineer to designate as a critical management area any groundwater basin or portion therein in which withdrawals of groundwater consistently exceed the perennial yield of the basin; and (2) requires the State Engineer to designate as a critical management area any groundwater basin or portion therein in which withdrawals of groundwater consistently exceed the perennial yield of the basin upon receipt of a petition for such a designation. (NRS 534.110) Existing law requires the State Engineer to designate certain areas as areas of active management, which are groundwater basins in which the State Engineer conducts close monitoring and regulation of the water supply because of heavy use. (NRS 534.011, 534.030) This bill eliminates the classification "area of active management" and renames the classification

"critical management area" as "active management area." Similar to the former designation of critical management area, section 3 of this bill authorizes the State Engineer to designate a basin or portion therein as an active management area if the State Engineer determines that: (1) ~~[withdrawals]~~ consumption of groundwater ~~[exceed]~~ consistently exceeds the perennial yield of the basin; or (2) groundwater levels continue to unreasonably decline . ~~[; or (3) pumping of groundwater conflicts with existing water rights.]~~ Section 3 requires the State Engineer to designate any basin or portion therein as an active management area if the State Engineer receives a petition for such a designation which is signed by ~~[not less than 40 percent of the combined total of holders of adjudicated or unadjudicated claims of vested rights and permits or certificates to appropriate water]~~ appropriators of record and owners of domestic wells who account for not less than 60 percent of the combined total appropriated groundwater in the basin or portion therein. Additionally, section 3 ~~[authorizes]~~ requires the State Engineer to rescind the designation of a groundwater basin or portion therein as an active management area if the State Engineer determines that the designation is no longer warranted. Section 4 of this bill specifies the powers of the State Engineer in basins or portions therein that are designated as an active management area.

Under existing law, the State Engineer is required to supervise certain artesian water, underground aquifers and percolating water. (NRS 534.030) Section 7 of this bill clarifies that the State Engineer is required to supervise all groundwater and wells, including domestic wells for which a permit is not required.

Existing law authorizes the submittal to the State Engineer of a petition for the approval of a groundwater management plan for a critical management area by a majority of the holders of permits or certificates to appropriate water. (NRS 534.037) Section 8 of this bill changes the signature requirement for such petitions to signatures from ~~[not less than 40 percent of the combined total of the holders of adjudicated or unadjudicated claims of vested rights and permits or certificates to appropriate water and]~~ appropriators of record and owners of domestic wells who account for not less than 60 percent of the combined total appropriated groundwater in the basin or portion therein.

Under existing law, the State Engineer is required to hold public hearings on the designation of a basin as in need of administration and on groundwater management plans for certain basins. Depending on whether adequate facilities are available, the hearings are required to be held within the basin or in the county in which the basin lies or, if the basin lies in more than one county, within the county where the major portion of the basin lies. (NRS 534.030, 534.037) Sections 7 and 8 of this bill authorize the State Engineer to also hold such a hearing at the location in closest proximity to the basin where an adequate facility exists for holding a hearing.

Under existing law, the holder of a water right forfeits that right if the holder does not put the water to beneficial use within a certain period. However, existing law authorizes the State Engineer to extend this period and requires the State Engineer to consider certain factors when determining whether to make such an extension. (NRS 534.090) Section 9 of this bill requires the State Engineer to consider as an additional factor in an application for an extension of time to prevent forfeiture whether the basin or portion therein where the water right is located has been designated as an active management area.

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

Section 1. Chapter 534 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Appropriator of record" means a holder of an adjudicated or unadjudicated claim of a vested right or a permit or certificate to appropriate water ~~[.]~~ on file in the Office of the State Engineer.*

Sec. 3. *1. The State Engineer:*

(a) May designate as an active management area any basin or a portion therein which has been designated previously as a groundwater basin by the State Engineer pursuant to NRS 534.030 and where:

(1) ~~[Withdrawals]~~ Consumption of groundwater ~~[exceed]~~ consistently exceeds the perennial yield of the basin; or

(2) Groundwater levels continue to unreasonably decline . ~~[; or

(3) Pumping of groundwater conflicts with existing water rights.]~~

(b) Shall designate as an active management area any basin or a portion therein which has been designated previously to be in need of administration by the State Engineer pursuant to NRS 534.030 upon receipt of a petition for ~~[such a]~~ designation as an active management area which is signed by ~~[not less than 40 percent of the combined total of the]~~ appropriators of record and owners of domestic wells who account for not less than 60 percent of the combined total of appropriated groundwater in the basin or portion therein.

(c) ~~[May]~~ Shall rescind the designation of a basin or portion therein as an active management area if the State Engineer determines that the conditions in the basin or portion therein no longer warrant that designation.

2. If a basin or portion therein has been designated as an active management area for ~~[at least]~~ 5 consecutive years, the State Engineer shall order that withdrawals, including, without limitation, withdrawals from domestic wells, be restricted in that basin or portion therein to conform to priority rights, unless a groundwater management plan has been approved for the basin or portion therein pursuant to NRS 534.037.

3. The designation of a basin or a portion therein as an active management area pursuant to this section may be appealed pursuant to NRS 533.450.

Sec. 4. *In considering a groundwater management plan pursuant to NRS 534.037 for a basin or portion therein designated as an active*

management area pursuant to section 3 of this act ~~[,]~~ and in addition to any other power granted by law, the State Engineer may ~~[, without limitation:]~~ approve a plan to:

1. Limit the quantity of water that may be withdrawn under any permit or certificate ~~[;]~~ to conform to priority rights.

~~2. [Limit the area that may be irrigated;~~

~~3. Limit the drilling of domestic wells;~~

~~4. Limit the quantity of water allowed to be withdrawn from a domestic well;~~

~~5. Limit the movement of water rights;~~

~~6. Impose or authorize conservation practices that might otherwise result in forfeiture of the water right pursuant to NRS 534.090;~~

~~7. Limit the number of extensions of time for the filing of proofs of completion of construction work and application of water to beneficial use that may be approved pursuant to NRS 533.380;~~

~~8. Require the filing of proofs of beneficial use pursuant to NRS 533.400;~~

~~9. Designate preferred uses of existing rights;~~

~~10. Assess fees to establish a fund to retire water rights; and~~

~~11. Require any other action that the State Engineer determines to be necessary.]~~ Exempt a water right from the requirements set forth in NRS 533.390, 533.395, 533.410 or 534.090 during the period that the plan is in effect so that any conservation practices that are implemented do not result in the cancellation or forfeiture of a water right.

3. Establish a fund to retire water rights or implement conservation practices. For purposes of the fund, the State Engineer may:

(a) Assess fees on appropriators of record of groundwater rights, owners of parcels and owners of domestic wells; and

(b) Receive money from any other source.

4. Authorize the voluntary relinquishment to the groundwater source of a portion of a groundwater right in exchange for granting an exemption on the unrelinquished portion of the groundwater right from any provision that requires the filing and approval of extensions to avoid the cancellation or forfeiture of the groundwater right during the period that the plan is in effect. Any right that is not voluntarily relinquished is not exempt from regulation by priority.

5. Require the filing of proofs of beneficial use pursuant to NRS 533.400.

6. Require the adoption of rules or regulations to further a groundwater management plan.

7. Request any other action reasonably related to the removal of the designation of an active management area.

Sec. 5. NRS 534.010 is hereby amended to read as follows:

534.010 1. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 534.0105 to 534.0175, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

2. As used in this chapter, the terms "underground water" and "groundwater" are synonymous.

Sec. 6. NRS 534.011 is hereby amended to read as follows:

534.011 ~~["Area of active]~~ *"Active* management ~~["]~~ *area"* means an area:

1. In which the State Engineer is conducting particularly close monitoring and regulation of the water supply because of heavy use of that supply; and

2. Which has received that designation by the State Engineer pursuant to ~~[NRS 534.030.]~~ *section 3 of this act.*

Sec. 7. NRS 534.030 is hereby amended to read as follows:

534.030 1. Upon receipt by the State Engineer of a petition requesting the State Engineer to administer the provisions of this chapter as relating to designated areas, signed by not less than 40 percent of the appropriators of record ~~[in the Office of the State Engineer,]~~ in any particular basin or portion therein, the State Engineer shall:

(a) Cause to be made the necessary investigations to determine if such administration would be justified.

(b) If the findings of the State Engineer are affirmative, designate the area by basin, or portion therein, and make an official order describing the boundaries by legal subdivision as nearly as possible.

(c) Proceed with the administration of this chapter.

2. In the absence of ~~[such]~~ a petition ~~[from the owners of wells]~~ *described in subsection 1,* in a groundwater basin which the State Engineer considers to be in need of administration, the State Engineer shall hold a public hearing:

(a) If adequate facilities to hold a hearing are available within the basin; or

(b) If such facilities are unavailable, hold the hearing within the county where the basin lies or within the county, where the major portion of the basin lies, *or at the location in closest proximity to the basin where an adequate facility exists for holding a hearing,*

➥ to take testimony ~~[from those owners]~~ to determine whether administration of that basin is justified. If the basin is found, after due investigation, to be in need of administration the State Engineer may enter an order in the same manner as if a petition, as described in subsection 1, had been received.

3. The order of the State Engineer may be reviewed by the district court of the county pursuant to NRS 533.450.

4. The State Engineer shall supervise all *underground water and* wells ~~[tapping artesian water or water in definable underground aquifers drilled after March 22, 1913, and all wells tapping percolating water drilled subsequent to March 25, 1939, except]~~ *, including, without limitation,* those wells for domestic purposes for which a permit is not required.

5. Within any groundwater basin which has been designated or which may hereafter be so designated by the State Engineer, except groundwater basins subject to the provisions of NRS 534.035, and wherein a water

conservation board has been created and established or wherein a water district has been created and established by law to furnish water to an area or areas within the basin or for groundwater conservation purposes, the State Engineer, in the administration of the groundwater law, shall avail himself or herself of the services of the governing body of the water district or the water conservation board, or both of them, in an advisory capacity. The governing body or water board shall furnish such advice and assistance to the State Engineer as is necessary for the purpose of the conservation of groundwater within the areas affected. The services of the governing body or water conservation board must be without compensation from the State, and the services so rendered must be upon reasonable agreements effected with and by the State Engineer.

Sec. 8. NRS 534.037 is hereby amended to read as follows:

534.037 1. In a basin *or a portion therein* that has been designated as ~~[a critical]~~ *an active* management area by the State Engineer pursuant to ~~[subsection 7 of NRS 534.110,]~~ *section 3 of this act,* a petition for the approval of a groundwater management plan for the basin *or portion therein* may be submitted to the State Engineer. The petition must be signed by ~~[a majority of the holders of permits or certificates to appropriate water in the basin that are on file in the Office of the State Engineer]~~ *appropriators of record and owners of domestic wells who account for not less than ~~[40]~~ 60 percent of the combined total of ~~[the appropriators of record and domestic well owners]~~ appropriated groundwater in the basin or portion therein* and must be accompanied by a groundwater management plan which must set forth the necessary steps for ~~[removal]~~ *rescission* of the ~~[basin's]~~ designation *of the basin or portion therein* as ~~[a critical]~~ *an active* management area.

2. In determining whether to approve a groundwater management plan submitted pursuant to subsection 1, the State Engineer shall consider, without limitation:

(a) The hydrology of the basin;

(b) The physical characteristics of the basin;

(c) The geographic spacing and location of the withdrawals of groundwater in the basin;

(d) The quality of the water in the basin;

(e) The wells located in the basin, including, without limitation, domestic wells;

(f) Whether a groundwater management plan already exists for the basin; and

(g) Any other factor deemed relevant by the State Engineer.

3. Before approving or disapproving a groundwater management plan submitted pursuant to subsection 1, the State Engineer shall hold a public hearing to take testimony on the plan in the county where the basin lies or, if the basin lies in more than one county, within the county where the major portion of the basin lies ~~[.]~~ *or at the location in closest proximity to the basin*

where an adequate facility exists for holding a hearing. The State Engineer shall cause notice of the hearing to be:

(a) Given once each week for 2 consecutive weeks before the hearing in a newspaper of general circulation in the county or counties in which the basin lies.

(b) Posted on the Internet website of the State Engineer for at least 2 consecutive weeks immediately preceding the date of the hearing.

4. The decision of the State Engineer on a groundwater management plan may be reviewed by the district court of the county pursuant to NRS 533.450.

5. An amendment to a groundwater management plan must be proposed and approved in the same manner as an original groundwater management plan is proposed and approved pursuant to this section.

Sec. 9. NRS 534.090 is hereby amended to read as follows:

534.090 1. Except as otherwise provided in this section ~~[,]~~ *and section 4 of this act,* failure for 5 successive years after April 15, 1967, on the part of the holder of any right, whether it is an adjudicated right, an unadjudicated right or a right for which a certificate has been issued pursuant to NRS 533.425, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse. If the records of the State Engineer or any other documents specified by the State Engineer indicate at least 4 consecutive years, but less than 5 consecutive years, of nonuse of all or any part of a water right which is governed by this chapter, the State Engineer shall notify the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail that the owner has 1 year after the date of the notice in which to use the water right beneficially and to provide proof of such use to the State Engineer or apply for relief pursuant to subsection 2 to avoid forfeiting the water right. If, after 1 year after the date of the notice, proof of resumption of beneficial use is not filed in the Office of the State Engineer, the State Engineer shall, unless the State Engineer has granted a request to extend the time necessary to work a forfeiture of the water right, declare the right forfeited within 30 days. Upon the forfeiture of a right to the use of groundwater, the water reverts to the public and is available for further appropriation, subject to existing rights. If, upon notice by registered or certified mail to the owner of record whose right has been declared forfeited, the owner of record fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the forfeiture becomes final. The failure to receive a notice pursuant to this subsection does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.

2. The State Engineer may, upon the request of the holder of any right described in subsection 1, extend the time necessary to work a forfeiture under that subsection if the request is made before the expiration of the time

necessary to work a forfeiture. The State Engineer may grant, upon request and for good cause shown, any number of extensions, but a single extension must not exceed 1 year. In determining whether to grant or deny a request, the State Engineer shall, among other reasons, consider:

(a) Whether the holder has shown good cause for the holder's failure to use all or any part of the water beneficially for the purpose for which the holder's right is acquired or claimed;

(b) The unavailability of water to put to a beneficial use which is beyond the control of the holder;

(c) Any economic conditions or natural disasters which made the holder unable to put the water to that use;

(d) Any prolonged period in which precipitation in the basin where the water right is located is below the average for that basin or in which indexes that measure soil moisture show that a deficit in soil moisture has occurred in that basin;

(e) Whether a groundwater management plan has been approved for the basin pursuant to NRS 534.037; ~~[and]~~

(f) *Whether the basin or portion therein has been designated as an active management area pursuant to section 3 of this act; or*

(g) Whether the holder has demonstrated efficient ways of using the water for agricultural purposes, such as center-pivot irrigation.

➥ The State Engineer shall notify, by registered or certified mail, the owner of the water right, as determined in the records of the Office of the State Engineer, of whether the State Engineer has granted or denied the holder's request for an extension pursuant to this subsection. If the State Engineer grants an extension pursuant to this subsection and, before the expiration of that extension, proof of resumption of beneficial use or another request for an extension is not filed in the Office of the State Engineer, the State Engineer shall declare the water right forfeited within 30 days after the expiration of the extension granted pursuant to this subsection.

3. If the failure to use the water pursuant to subsection 1 is because of the use of center-pivot irrigation before July 1, 1983, and such use could result in a forfeiture of a portion of a right, the State Engineer shall, by registered or certified mail, send to the owner of record a notice of intent to declare a forfeiture. The notice must provide that the owner has at least 1 year after the date of the notice to use the water beneficially or apply for additional relief pursuant to subsection 2 before forfeiture of the owner's right is declared by the State Engineer.

4. A right to use underground water whether it is vested or otherwise may be lost by abandonment. If the State Engineer, in investigating a groundwater source, upon which there has been a prior right, for the purpose of acting upon an application to appropriate water from the same source, is of the belief from his or her examination that an abandonment has taken place, the State Engineer shall so state in the ruling approving the application. If, upon notice by registered or certified mail to the owner of record who had the

prior right, the owner of record of the prior right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the alleged abandonment declaration as set forth by the State Engineer becomes final.

Sec. 10. NRS 534.110 is hereby amended to read as follows:

534.110 1. The State Engineer shall administer this chapter and shall prescribe all necessary regulations within the terms of this chapter for its administration.

2. The State Engineer may:

(a) Require periodical statements of water elevations, water used, and acreage on which water was used from all ~~[holders of permits and claimants of vested rights.]~~ *appropriators of record and owners of domestic wells.*

(b) Upon his or her own initiation, conduct pumping tests to determine if overpumping is indicated, to determine the specific yield of the aquifers and to determine permeability characteristics.

3. The State Engineer shall determine whether there is unappropriated water in the area affected and may issue permits only if the determination is affirmative. The State Engineer may require each applicant to whom a permit is issued for a well:

(a) For municipal, quasi-municipal or industrial use; and

(b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

➥ to report periodically to the State Engineer concerning the effect of that well on other previously existing wells that are located within 2,500 feet of the well.

4. It is a condition of each appropriation of groundwater acquired under this chapter that the right of the appropriator relates to a specific quantity of water and that the right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion. In determining a reasonable lowering of the static water level in a particular area, the State Engineer shall consider the economics of pumping water for the general type of crops growing and may also consider the effect of using water on the economy of the area in general.

5. This section does not prevent the granting of permits to applicants later in time on the ground that the diversions under the proposed later appropriations may cause the water level to be lowered at the point of diversion of a prior appropriator, so long as any protectable interests in existing domestic wells as set forth in NRS 533.024 and the rights of holders of existing appropriations can be satisfied under ~~[such]~~ express conditions ~~[.]~~ *that manage the appropriation and do not conflict with existing rights.* At the time a permit is granted for a well:

(a) For municipal, quasi-municipal or industrial use; and

(b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

➥ the State Engineer shall include as a condition of the permit that pumping water pursuant to the permit may be limited or prohibited to prevent any unreasonable adverse effects on an existing domestic well located within 2,500 feet of the well, unless the holder of the permit and the owner of the domestic well have agreed to alternative measures that mitigate those adverse effects.

6. ~~[Except as otherwise provided in subsection 7,]~~ *Notwithstanding the provisions of section 3 of this act,* the State Engineer shall conduct investigations in any basin or portion thereof where it appears that the average annual replenishment to the groundwater supply may not be adequate for the needs of all ~~[permittees and all vested right claimants,]~~ *appropriators of record and owners of domestic wells* and if the findings of the State Engineer so indicate, the State Engineer may order that withdrawals, including, without limitation, withdrawals from domestic wells, be restricted to conform to priority rights.

7. ~~[The State Engineer:~~

~~(a) May designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin.~~

~~(b) Shall designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin upon receipt of a petition for such a designation which is signed by a majority of the holders of certificates or permits to appropriate water in the basin that are on file in the Office of the State Engineer.~~

~~➥ The designation of a basin as a critical management area pursuant to this subsection may be appealed pursuant to NRS 533.450. If a basin has been designated as a critical management area for at least 10 consecutive years, the State Engineer shall order that withdrawals, including, without limitation, withdrawals from domestic wells, be restricted in that basin to conform to priority rights, unless a groundwater management plan has been approved for the basin pursuant to NRS 534.037.~~

~~8.]~~ In any basin or portion thereof in the State designated by the State Engineer, the State Engineer may restrict drilling of wells in any portion thereof if the State Engineer determines that additional wells would cause an undue interference with existing wells. Any order or decision of the State Engineer so restricting drilling of such wells may be reviewed by the district court of the county pursuant to NRS 533.450.

Sec. 11. NRS 534.250 is hereby amended to read as follows:

534.250 1. Any person desiring to operate a project must first make an application to, and obtain from, the State Engineer a permit to operate such a project.

2. The State Engineer shall, upon application, issue a permit to operate a project if the State Engineer determines that:

(a) The applicant has the technical and financial capability to construct and operate a project.

(b) The applicant has a right to use the proposed source of water for recharge pursuant to an approved appropriation consistent with this chapter and chapter 533 of NRS. Any determination made by the State Engineer for purposes of this paragraph is not binding in any other proceeding.

(c) The project is hydrologically feasible.

(d) ~~[If the project is in an area of active management, the project is consistent with the program of augmentation for that area.~~

~~(e)]~~ The project will not cause harm to users of land or other water within the area of hydrologic effect of the project.

3. The holder of a permit may apply to the State Engineer for approval to assign the permit to another person. The State Engineer must approve the assignment if the person to whom the permit is to be assigned will meet the requirements of paragraphs (a) and (b) of subsection 2 when the assignment is completed.

4. A permit for a project must include:

(a) The name and mailing address of the person to whom the permit is issued.

(b) The name of the ~~[area of active management,]~~ groundwater basin or groundwater sub-basin, as applicable, in which the project will be located.

(c) The capacity and plan of operation of the project.

(d) Any monitoring program required pursuant to subsection 5.

(e) Any conditions which are imposed pursuant to this chapter or any regulation adopted pursuant thereto.

(f) Any other information which the State Engineer deems necessary to include.

5. The State Engineer shall require the holder of a permit to monitor the operation of the project and the effect of the project on users of land and other water within the area of hydrologic effect of the project. In determining any monitoring requirements, the State Engineer shall cooperate with all government entities which regulate or monitor, or both, the quality of water.

6. The State Engineer, on his or her initiative or at the request of the holder of the permit, may modify the conditions of the permit if monitoring demonstrates that modifications are necessary. In determining whether modifications are necessary, the State Engineer shall consider uses of land or water which were not in existence when the permit was issued.

Sec. 12. NRS 534.260 is hereby amended to read as follows:

534.260 The State Engineer shall prescribe and furnish guidelines for an application for a permit for a project. The application must include:

1. A fee for application of $2,500;

2. The name and mailing address of the applicant;

3. The name of the ~~[area of active management,]~~ groundwater basin or groundwater sub-basin, as applicable, in which the applicant proposes to operate the project;

4. The name and mailing address of the owner of the land on which the applicant proposes to operate the project;

5. The legal description of the location of the proposed project;

6. Such evidence of financial and technical capability as the State Engineer requires;

7. The source, quality and annual quantity of water proposed to be recharged, and the quality of the receiving water;

8. The legal basis for acquiring and using the water proposed to be recharged;

9. A description of the proposed project including its capacity and plan of operation;

10. A copy of a study that demonstrates:

(a) The area of hydrologic effect of the project;

(b) That the project is hydrologically feasible;

(c) That the project will not cause harm to users of land and water within the area of hydrologic effect; and

(d) The percentage of recoverable water;

11. The proposed duration of the permit; and

12. Any other information which the State Engineer requires.

Sec. 13. ~~[NRS 534.300 is hereby amended to read as follows:~~

~~534.300 1. The State Engineer shall establish a storage account for each project for which the State Engineer has issued a permit. If the project stores water from more than one source, the State Engineer shall establish subaccounts for each source of water.~~

~~2. The holder of a permit for a project may recover only the recoverable amount of water that is stored by the project.~~

~~3. For the purposes of this section, "recoverable amount" means the amount of water, as determined by the State Engineer, that has reached the aquifer and remains within the area of [active management.] *hydrologic effect.]*~~ (Deleted by amendment.)

Sec. 14. NRS 534.340 is hereby repealed.

Sec. 15. This act becomes effective on July 1, 2015.

TEXT OF REPEALED SECTION

534.340 Project for recharge, storage and recovery of water: Designation of areas of active management. The State Engineer shall designate areas of active management pursuant to NRS 534.030.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

The amendment to Senate Bill No. 81 cleans up the language in a few sections and retains quite a bit of current law instead of amending it as proposed by the bill. The most notable changes are: the State Engineer is required to designate any basin or portion therein as an active management area if the State Engineer receives a petition for such a designation which is signed by appropriators of record and owners of domestic wells who account for not less than 60 percent of the combined total appropriated groundwater in the basin or portion therein instead of what was originally proposed in the bill was not less than 40 percent of the combined total holders of adjudicated or unadjudicated claims of vested rights and permits or certificates to appropriate water. Finally, most significant is the amendment to section 4 of the bill which, in part, authorizes the State Engineer to assess fees on appropriators of record of groundwater rights, owners of parcels and owners of domestic wells for the purpose of establishing a fund to

retire water rights or implement conservation practices in an active management area. This is what caused the two-thirds majority vote requirement being added to the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 185.

Bill read second time.

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

Amendment No. 468.

SUMMARY—Makes changes relating to fire and related emergency services in certain counties. (BDR 42-121)

AN ACT relating to suppression of fires; requiring the entity that is responsible for the closest emergency fire-fighting vehicle to respond to and suppress ~~[a fire]~~ certain fires in certain counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the municipalities of this State to provide fire protection services. (NRS 268.730) Existing law also authorizes the creation of districts for a fire department by boards of county commissioners and the creation of fire protection districts and county fire protection districts. (NRS 244.2961, 473.034, 474.110, 474.460) This bill requires, in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County), the entity that is responsible for the emergency fire-fighting vehicle located closest to a structure or brush fire to respond to and take all actions necessary to suppress the fire regardless of whether the location of the fire falls within the territory served by the entity.

WHEREAS, The provision of fire protection and related emergency services is fundamental to what the people of this State expect from their local governments; and

WHEREAS, Providing such services in a timely, effective and efficient manner is critical to the protection of life and property; and

WHEREAS, The infighting that has continuously occurred for several years between the entities that provide fire protection and related emergency services in Washoe County threatens the lives and property of the people of this State who reside in that county; and

WHEREAS, The failure of the local governments in Washoe County to resolve this dispute in a timely manner now requires the Nevada Legislature to intervene and ensure that the lives and property of the people of this State who reside in Washoe County are no longer put at risk by the reluctance of these entities to find an agreement that protects their residents; now, therefore,

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

Section 1. Chapter 475 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any provision of law to the contrary, in a county whose population is 100,000 or more but less than 700,000, the entity that is responsible for the emergency fire-fighting vehicle located closest to a structure or brush fire shall respond to and take all actions necessary to suppress the fire regardless of whether the fire occurs within the territory served by the entity.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

This amendment to Senate Bill No. 185 narrows the scope of the bill to a structure or brush fire only.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 223.

Bill read second time.

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

Amendment No. 458.

SUMMARY—Revises provisions relating to contractors. (BDR 53-984)

AN ACT relating to contractors; revising provisions relating to the liability of a prime contractor for indebtedness incurred by a subcontractor for labor costs; revising provisions governing the statute of limitations to bring an action against a prime contractor for the recovery of wages or benefits due to an employee of a subcontractor; revising provisions relating to mechanics' and materialmen's lien claimants; requiring an administrator of a Taft-Hartley trust that does not receive a benefit payment required to be made to the trust by a contractor or subcontractor to provide notice to the contractor and subcontractor that the benefit payment has not been received; ~~[providing for the imposition of an administrative penalty;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes an original contractor liable for any indebtedness incurred by a subcontractor for labor costs, including benefits payable to a trust established by a collective bargaining unit. (NRS 608.150) Sections 1 and 3 of this bill provide that a prime contractor is not liable for the labor costs of a subcontractor to the extent those costs are: (1) interest, liquidated damages, attorney's fees or costs resulting from a subcontractor's failure to pay contributions or other payments to, or on behalf of, an employee; or (2) any amounts for which the prime contractor did not receive adequate notice in the manner that section 5 of this bill requires. Section 2 of this bill reduces the statute of limitations period applicable to commencing an action against a prime contractor for the recovery of wages or benefits due to an employee of a subcontractor.

Existing law also provides that a mechanics' or materialmen's lien claimant must provide a notice of right to lien to an owner of property upon which work has been performed unless the claimant is a person who only performed labor on the project. (NRS 108.245) Section 4 of this bill ~~[provides that a mechanics' and materialmen's lien claimant shall not avoid the obligation to provide a notice of lien to a property owner by a claim that the property owner had actual or constructive notice that the lien claimant provided work, equipment, materials or services to the project.]~~ requires a prime contractor or subcontractor who participates in a health or welfare fund, or other plan for the benefit of employees, to provide to the fund or plan notice of the name and location of the project upon the commencement of work on a project. In addition, section 4 excludes from the exemption to the notice provisions of NRS 108.245 an express benefit trust which receives a portion of the compensation paid to a laborer.

Section 5 ~~[of this bill]~~ requires an administrator of a Taft-Hartley trust that does not receive a benefit payment required to be made to the trust by a general contractor or subcontractor, within ~~[45]~~ 60 days after the required payment ~~[was due,]~~ is deemed delinquent, to provide notice to the general contractor and subcontractor that the benefit payment has not been received.

~~[Existing law requires the Labor Commissioner, in the context of public works, to enforce various provisions relating to labor, wages and employment practices, allows the Labor Commissioner to impose an administrative penalty of not more than $5,000 for each violation thereof and requires the Labor Commissioner to report each such violation to the Attorney General. (NRS 338.015) Section 6 of this bill adds failure to comply with the notice requirements of section 5 to the impermissible acts within the scope of the enforcement powers of the Labor Commissioner that are set forth in NRS 338.015.]~~

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

Section 1. NRS 608.150 is hereby amended to read as follows:

608.150 1. ~~[Every original]~~ *Except as otherwise provided in subsections 2 and 3, every prime* contractor making or taking any contract in this State for the erection, construction, alteration or repair of any building or structure, or other work ~~[,]~~ *of improvement,* shall assume and is liable for the indebtedness for labor incurred by any subcontractor or any contractors acting under, by or for the ~~[original]~~ *prime* contractor in performing any labor, construction or other work included in the subject of the ~~[original]~~ *prime* contract, for labor, and for the requirements imposed by chapters 616A to 617, inclusive, of NRS.

2. *The provisions of subsection 1 do not require a prime contractor to assume or be liable for any liability of a subcontractor or other contractor for any penalty, including, without limitation, interest, liquidated damages, attorney's fees or costs for the failure of the subcontractor or other contractor to make any contributions or other payments under any other law*

or agreement, including, without limitation, to a health or welfare fund or any other plan for the benefit of employees in accordance with a collective bargaining agreement.

3. The provisions of subsection 1 do not require a prime contractor to assume or be liable for any liability of a subcontractor or other contractor for any amount for which the prime contractor did not receive proper notice in accordance with section 5 of this act.

4. It is unlawful for any *prime* contractor ~~[or any other person]~~ to fail to comply with the provisions of subsection 1, or to attempt to evade the responsibility imposed thereby, or to do any other act or thing tending to render nugatory the provisions of this section.

~~[3.]~~ *5.* The district attorney of any county wherein the defendant may reside or be found shall ~~*[has exclusive jurisdiction to]*~~ institute civil proceedings against any such ~~[original]~~ *prime* contractor failing to comply with the provisions of this section in a civil action for the amount of all wages and ~~[damage]~~ *benefits* that may be owing or have accrued as a result of the failure of any subcontractor acting under the ~~[original]~~ *prime* contractor, and any property of the ~~[original]~~ *prime* contractor, not exempt by law, is subject to attachment and execution for the payment of any judgment that may be recovered in any action under the provisions of this section.

6. As used in this section, "prime contractor" has the meaning ascribed to it in NRS 108.22164.

Sec. 2. NRS 11.209 is hereby amended to read as follows:

11.209 1. No action against a ~~[principal]~~ *prime* contractor for the recovery of wages due an employee of a subcontractor or contributions or premiums required to be made or paid on account of the employee may be commenced more than:

(a) ~~[Two years, *Ninety days,]*~~ *One year* if the ~~[principal]~~ *prime* contractor is located in Nevada; or

(b) ~~[Three years,]~~ *One hundred eighty days,* if the ~~[principal]~~ *prime* contractor is located outside this state,

➥ after the date the employee should have received those wages from or those contributions or premiums should have been made or paid by the subcontractor.

2. No action against a ~~[principal]~~ *prime* contractor for the recovery of benefits due an employee of a subcontractor may be commenced more than ~~[:~~

~~(a) Three years, *Ninety days,* if the principal *prime* contractor is located in Nevada; or~~

~~(b) Four years, *One hundred eighty days,* if the principal *prime* contractor is located outside this state,~~

~~➥]~~ *1 year* after the date the employee should have received those benefits from the subcontractor.

3. As used in this section, "prime contractor" has the meaning ascribed to it in NRS 108.22164.

Sec. 3. NRS 108.2214 is hereby amended to read as follows:

108.2214 1. "Lien claimant" means any person who provides work, material or equipment with a value of $500 or more to be used in or for the construction, alteration or repair of any improvement, property or work of improvement. The term includes, without limitation, every artisan, builder, contractor, laborer, lessor or renter of equipment, materialman, miner, subcontractor or other person who provides work, material or equipment, and any person who performs services as an architect, engineer, land surveyor or geologist, in relation to the improvement, property or work of improvement.

2. As used in this section, "laborer" includes, without limitation, an express trust fund to which any portion of the total compensation of a laborer, including ~~[, without limitation,]~~ any fringe benefit, must be paid pursuant to an agreement with that laborer or the collective bargaining agent of that laborer. *For the purposes of this subsection, "fringe benefit" does not include any interest, liquidated damages, attorney's fees, costs or other penalties that may be incurred by the employer of the laborer for failure to pay any such compensation under any law or contract.*

Sec. 4. NRS 108.245 is hereby amended to read as follows:

108.245 1. Except as otherwise provided in subsection 5, every lien claimant, other than one who performs only labor, who claims the benefit of NRS 108.221 to 108.246, inclusive, shall, at any time after the first delivery of material or performance of work or services under a contract, deliver in person or by certified mail to the owner of the property a notice of right to lien in substantially the following form:

NOTICE OF RIGHT TO LIEN

To: .....

(Owner's name and address)

The undersigned notifies you that he or she has supplied materials or equipment or performed work or services as follows:

.....

(General description of materials, equipment, work or services)

for improvement of property identified as (property description or street address) under contract with (general contractor or subcontractor). This is not a notice that the undersigned has not been or does not expect to be paid, but a notice required by law that the undersigned may, at a future date, record a notice of lien as provided by law against the property if the undersigned is not paid.

.....

(Claimant)

A subcontractor or equipment or material supplier who gives such a notice must also deliver in person or send by certified mail a copy of the notice to the prime contractor for information only. The failure by a subcontractor to deliver the notice to the prime contractor is a ground for disciplinary proceedings against the subcontractor under chapter 624 of NRS but does not invalidate the notice to the owner.

2. Such a notice does not constitute a lien or give actual or constructive notice of a lien for any purpose.

3. No lien for materials or equipment furnished or for work or services performed, except labor, may be perfected or enforced pursuant to NRS 108.221 to 108.246, inclusive, unless the notice has been given.

4. The notice need not be verified, sworn to or acknowledged.

5. A prime contractor or other person who contracts directly with an owner or sells materials directly to an owner is not required to give notice pursuant to this section.

6. A lien claimant who is required by this section to give a notice of right to lien to an owner and who gives such a notice has a right to lien for materials or equipment furnished or for work or services performed in the 31 days before the date the notice of right to lien is given and for the materials or equipment furnished or for work or services performed anytime thereafter until the completion of the work of improvement.

7. ~~[A lien claimant who is required by this section to give a notice of right to lien to an owner does not avoid the obligation to provide such notice by a claim that the owner had actual or constructive notice that the lien claimant provided materials, equipment, work or services to the project.]~~ Upon commencement of work on a project, any prime contractor or subcontractor participating in a health or welfare fund or any other plan for the benefit of employees is required to notify such fund or plan of the name and location of the project so that the fund or plan may protect potential lien rights under NRS 108.221 to 108.146, inclusive.

8. As used in this section, "one who performs only labor" does not include an express trust fund to which any portion of the total compensation of a laborer, including, without limitation, any fringe benefit, must be paid pursuant to an agreement with that laborer or the collective bargaining agent of that laborer.

Sec. 5. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If an administrator of a Taft-Hartley trust which is formed pursuant to 29 U.S.C. § 186(c)(5) does not receive a benefit payment owed to the trust within ~~[30]~~ 45 days after the date on which the payment is ~~[due,]~~ deemed delinquent, the administrator shall provide a notice of the delinquency to the general contractor and, if applicable, the subcontractor, who is responsible for the benefit payment. The notice of delinquency must be provided in the manner set forth in subsections 2, 3 and 4.

2. The notice required pursuant to subsection 1 must be given to the general contractor and, if applicable, the subcontractor, who is responsible for the delinquent benefit payment, within 15 days after the expiration of the ~~[30-day]~~ 45-day period described in subsection 1.

3. The notice required pursuant to subsection 1 must be given to the general contractor and, if applicable, the subcontractor, who is responsible for the delinquent benefit payment, by electronic mail, telephone and:

(a) Personal delivery; or

(b) Registered or certified mail, return receipt requested, to the last known address of the general contractor and, if applicable, the subcontractor.

4. The notice required pursuant to subsection 1 must include, without limitation:

(a) The amount owed;

(b) The name and address of the general contractor and, if applicable, the subcontractor, who is responsible for the delinquent benefit payment; and

(c) A demand for full payment of the amount not paid.

5. For the purposes of this section, "general contractor" includes a prime contractor.

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 5 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 5 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.]~~ (Deleted by amendment.)

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 458 makes six changes to Senate Bill No. 223. First, it requires a district attorney, where the defendant may reside or be found, to instigate civil proceedings against a prime contractor who fails to comply with the provisions of this section.

Second, it reduces the statute of limitations period applicable to commencing an action against a prime contractor for the recovery of wages of benefits due an employee of a subcontractor from three years to one year if the prime contractor is located in Nevada, or to 180 days if the contractor is located outside of Nevada.

Third, it deletes the provision that a mechanics' and materialmen's lien claimant must not avoid the obligation to provide a notice of lien to a property owner by a claim that the property owner had actual or constructive notice that the lien claimant provided work, equipment, materials or services to the project.

Fourth, it adds a new subsection to require notice to a health or welfare fund or any other plan for the benefit of employees in accordance with a collective bargaining agreement of both project name and location.

Fifth, it requires an administrator of a Taft-Hartley Trust that does not receive a benefit payment required to be made to the trust by a general contractor or subcontractor, within 60 days after the required payment is deemed delinquent, to provide notice to the general contractor or subcontractors that the benefit payment has not been received.

Last, it deletes provisions which add failure to comply with the notice requirements to the impermissible acts within the scope of the enforcement powers of the Labor Commissioner.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 248.

Bill read second time.

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

Amendment No. 457.

SUMMARY—Revises provisions relating to the provision of assistance to certain ~~[persons with disabilities.]~~ voters. (BDR ~~[38-982)]~~ 24-982)

AN ACT relating to ~~[persons with disabilities; requiring the Department of Motor Vehicles to place a designation on the driver's license, instruction permit or identification card of a person with a disability that, in the case of a driver's license or instruction permit, indicates the person has a disability or, in the case of an identification card, indicates the person is blind or has a disability, if the person requests the designation and provides specified documentation; additionally requiring the Department to place a designation on the driver's license, instruction permit or identification card of a person with a disability indicating that the person is disabled in a manner that renders the person unable to use a voting device without assistance, if the person requests the designation and provides specified documentation; providing that such a designation constitutes conclusive evidence of the condition of the holder; prohibiting a person who is not the rightful holder of such a designation from using such a designation to demonstrate that he or she is blind or has a disability; prohibiting an election board, or any member or officer of an election board, from requiring any additional documentation that a person with such a designation is entitled to assistance in casting a ballot; providing a penalty;]~~ elections; revising provisions regarding the provision of assistance in casting a ballot to a person with a disability or a person with an inability to read or write English; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, the Department of Motor Vehicles places designations on drivers' licenses, instruction permits and identification cards indicating that the holder is: (1) a veteran (NRS 483.2925, 483.853); (2) a person with a disability which limits or impairs the ability to walk (NRS 483.349, 483.865); or (3) a person with a medical condition. (NRS 483.3485, 483.863)~~

~~Sections 13-22, 29 and 45 of this bill require the Department to place a designation on: (1) the driver's license or instruction permit of a qualified person indicating that the person is a person with a disability; (2) the identification card of a qualified person indicating that the person is blind or~~

~~is a person with a disability; and (3) the driver's license, instruction permit or identification card of a qualified person indicating that the person is blind or is a person with a disability and is unable to use a voting device without assistance. Section 2 of this bill provides that such a designation constitutes conclusive proof that the holder is a person who is blind or a person with a disability, as applicable, and prohibits an officer of this State, an agency of this State or a political subdivision of this State from requiring such a person to provide any additional proof of that condition.]~~ Existing law provides that, with limited exceptions, a person with a physical disability or an inability to read or write English is entitled to assistance in casting a ballot if the need for assistance is apparent or known to the election board, but the election board may require such a person to sign a statement under penalty of perjury swearing that he or she requires such assistance. (NRS 293.296, 293C.282) Sections 7 and 9 of this bill ~~[prohibit an election board, or any member or officer thereof, from requiring a person who holds a designation that the person is disabled in a manner that renders him or her unable to use a voting device without assistance to produce any additional documentation of his or her disability to be entitled to assistance in casting a ballot. Section 6 of this bill prohibits a person from using a designation that he or she is a person who is blind or a person with a disability to prove or otherwise demonstrate that he or she is a person who is blind or has a disability if the person, in fact, is not blind or does not have a disability.]~~ establish that: (1) a person with a disability or an inability to read or write English remains entitled to assistance in casting a ballot if the need for such assistance is apparent or known to the election board; (2) a person with a disability or an inability to read or write English may request assistance in voting in any manner; and (3) an election board may not require a person with a disability or an inability to read or write English to sign a statement under penalty of perjury swearing that he or she requires assistance in casting a ballot. Under existing law, a person with a disability that prevents him or her from marking or signing a ballot, or using a voting device without assistance, is required, as a prerequisite to receiving an absent ballot, to furnish a statement from a licensed physician certifying that the person is a person with a disability. (NRS 293.3165, 293C.318) Sections 8 and 10 of this bill eliminate the requirement that a person with a disability furnish a statement from a physician certifying that the person is a person with a physical disability as a prerequisite to the person receiving an absent ballot.

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

Section 1. ~~[Chapter 426 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.]~~ (Deleted by amendment.)

Sec. 2. ~~*[1. A valid designation that a person is:*~~

~~*(a) A person with a disability on a driver's license or instruction permit pursuant to section 16 of this act constitutes conclusive evidence that the*~~

~~*person identified on the license or permit, as applicable, is a person with a disability.*~~

~~*(b) Blind or a person with a disability on an identification card pursuant to section 22 of this act constitutes conclusive evidence that the person identified on the card is a person who is blind or a person with a disability, as applicable.*~~

~~*2. An officer or employee of this State, an agency of this State or a political subdivision of this State shall not require a person who holds a valid driver's license, instruction permit or identification card with a designation as described in subsection 1 to produce any additional documentation or evidence to demonstrate that he or she is a person who is blind or a person with a disability, as applicable.]*~~ (Deleted by amendment.)

Sec. 3. ~~*[The Department may adopt regulations necessary to carry out the provisions of NRS 426.401 to 426.461, inclusive, and sections 2 and 3 of this act.]*~~ (Deleted by amendment.)

Sec. 4. ~~[NRS 426.401 is hereby amended to read as follows:~~

~~426.401 As used in NRS 426.401 to 426.461, inclusive, *and sections 2 and 3 of this act,* unless the context otherwise requires, the words and terms defined in NRS 426.411, 426.421 and 426.431 have the meanings ascribed to them in those sections.]~~ (Deleted by amendment.)

Sec. 5. ~~[NRS 426.441 is hereby amended to read as follows:~~

~~426.441 1. A person with a permanent disability may apply to the Department for an expedited service permit. The application must:~~

~~(a) Be submitted on a form approved by the Department; and~~

~~(b) Include a statement from a licensed physician certifying that the applicant is a person with a permanent disability.~~

~~2. Upon receipt of a completed application pursuant to subsection 1 and the payment of any required fee, the Department shall issue a permit to the applicant. The permit must:~~

~~(a) Set forth the name and address of the person to whom it is issued;~~

~~(b) Include a colored photograph of the applicant and the international symbol of access which must be white on a blue background;~~

~~(c) Include any other information the Department may require; and~~

~~(d) Be the same size as a driver's license issued by the Department pursuant to the provisions of chapter 483 of NRS.~~

~~3. A permit is valid for 10 years after the date of issuance.~~

~~4. The Department may:~~

~~(a) At any time review its determination of whether a holder of a permit is eligible for issuance of the permit pursuant to the provisions of this section. If the Department determines that a holder of a permit is not eligible for issuance of the permit, the Department shall notify the person of that fact in writing. Upon receipt of the notice, the holder shall, as soon as practicable, surrender the permit to the Department.~~

~~(b) Charge a fee for the issuance of a permit pursuant to the provisions of this section.~~

~~—[(c) Adopt regulations necessary to carry out the provisions of NRS 426.401 to 426.461, inclusive.]~~ (Deleted by amendment.)

Sec. 6. ~~[NRS 426.461 is hereby amended to read as follows:~~

~~426.461 1. It is unlawful for a person, other than a person to whom [an]~~ ~~*(a) An* expedited service permit is issued , [pursuant to the provisions of NRS 426.441,] to use or attempt to use such a permit to obtain services from a state agency pursuant to the provisions of NRS 426.451.~~

~~*(b) A designation that the person is a person with a disability has been placed on the driver's license or instruction permit of the person, to use such designation to prove or otherwise demonstrate to an officer or employee of this State, an agency of this State or a political subdivision of this State that he or she is a person with a disability.*~~

~~*(c) A designation that the person is a person who is blind or a person with a disability has been placed on the identification card of the person, to use such designation to prove or otherwise demonstrate to an officer or employee of this State, an agency of this State or a political subdivision of this State that he or she is a person who is blind or a person with a disability.*~~

~~2. A person who violates a provision of [this] subsection *1* is guilty of a misdemeanor.]~~ (Deleted by amendment.)

Sec. 7. NRS 293.296 is hereby amended to read as follows:

293.296 1. Any registered voter who by reason of a physical disability or an inability to read or write English is unable to mark a ballot or use any voting device without assistance is entitled to assistance from a consenting person of his or her own choice, except:

(a) The voter's employer or an agent of the voter's employer; or

(b) An officer or agent of the voter's labor organization.

2. A person providing assistance pursuant to this section to a voter in casting a vote shall not disclose any information with respect to the casting of that ballot.

3. The right to assistance in casting a ballot may not be denied or impaired when the need for assistance is apparent or is known to the election board or any member thereof ~~[, but the]~~ *or when the registered voter* ~~*[presents a valid driver's license, instruction permit or identification card issued by the Department of Motor Vehicles with a designation that the registered voter is disabled in a manner necessitating assistance in casting a ballot as described in section 16 or 22 of this act. The*~~ election board may ~~require a registered voter to sign a statement that he or she requires assistance in casting a vote by reason of a physical disability or an inability to read or write English when the need for assistance is not apparent or no member of the election board has knowledge thereof. The statement must be executed under penalty of perjury.]~~ *requests such assistance in any manner.*

4. In addition to complying with the requirements of this section, the county clerk and election board officer shall, upon the request of a registered voter with a physical disability, make reasonable accommodations to allow the voter to vote at his or her polling place.

Sec. 8. NRS 293.3165 is hereby amended to read as follows:

293.3165 1. A registered voter who, because of a physical disability, is unable to mark or sign a ballot or use a voting device without assistance may submit a written statement to the appropriate county clerk requesting that the registered voter receive an absent ballot for each election conducted during the period specified in subsection 3.

2. A written statement submitted pursuant to subsection 1 must:

(a) ~~[Include a :~~

~~*(1) A statement from a physician licensed in this State certifying that the registered voter is a person with a physical disability and, because of the physical disability, is unable to mark or sign a ballot or use a voting device without assistance; or*~~

~~*(2) A copy of the driver's license, instruction permit or identification card of the registered voter issued by the Department of Motor Vehicles with a designation that the registered voter is disabled in a manner necessitating assistance in casting a ballot as described in section 16 or 22 of this act;*~~

~~(b)]~~ Designate the person who will assist the registered voter in marking and signing the absent ballot on behalf of the registered voter; and

~~[(c)]~~ *(b)* Include the name, address and signature of the person designated pursuant to paragraph ~~[(b).]~~ *(a).*

3. Upon receipt of a written statement submitted by a registered voter pursuant to subsection 1, the county clerk shall, if the statement includes the information required pursuant to subsection 2, issue an absent ballot to the registered voter for each election that is conducted during the year immediately succeeding the date the written statement is submitted to the county clerk.

4. ~~[To determine whether a registered voter is entitled to receive an absent ballot pursuant to this section, the county clerk may, every year after an absent ballot is issued to a registered voter pursuant to subsection 3, require the registered voter to submit a statement from a licensed physician *or a copy of a driver's license, instruction permit or identification card* as specified in paragraph (a) of subsection 2. If a statement from a physician licensed in this State submitted pursuant to this subsection indicates that the registered voter is no longer physically disabled, *or the designation on the driver's license, instruction permit or identification card of the registered voter is no longer valid,* the county clerk shall not issue an absent ballot to the registered voter pursuant to this section.~~

~~5.]~~ A person designated pursuant to paragraph ~~[(b)]~~ *(a)* of subsection 2 may, on behalf of and at the direction of the registered voter, mark and sign an absent ballot issued to the registered voter pursuant to the provisions of this section. If the person marks and signs the ballot, the person shall indicate next to his or her signature that the ballot has been marked and signed on behalf of the registered voter.

~~[6.]~~ *5.* The procedure authorized pursuant to this section is subject to all other provisions of this chapter relating to voting by absent ballot to the

extent that those provisions are not inconsistent with the provisions of this section.

Sec. 9. NRS 293C.282 is hereby amended to read as follows:

293C.282 1. Any registered voter who, because of a physical disability or an inability to read or write English, is unable to mark a ballot or use any voting device without assistance is entitled to assistance from a consenting person of his or her own choice, except:

(a) The voter's employer or an agent of the voter's employer; or

(b) An officer or agent of the voter's labor organization.

2. A person providing assistance pursuant to this section to a voter in casting a vote shall not disclose any information with respect to the casting of that ballot.

3. The right to assistance in casting a ballot may not be denied or impaired when the need for assistance is apparent or is known to the election board or any member thereof ~~[, but the]~~ *or when the registered voter ~~[presents a valid driver's license, instruction permit or identification card issued by the Department of Motor Vehicles with a designation that the registered voter is disabled in a manner necessitating assistance in casting a ballot as described in section 16 or 22 of this act. The~~* ~~election board may require a registered voter to sign a statement that he or she requires assistance in casting a vote because of a physical disability or an inability to read or write English when the need for assistance is not apparent or no member of the election board has knowledge thereof. The statement must be executed under penalty of perjury.]~~ *requests such assistance in any manner.*

4. In addition to complying with the requirements of this section, the city clerk and election board officer shall, upon the request of a registered voter with a physical disability, make reasonable accommodations to allow the voter to vote at his or her polling place.

Sec. 10. NRS 293C.318 is hereby amended to read as follows:

293C.318 1. A registered voter who, because of a physical disability, is unable to mark or sign a ballot or use a voting device without assistance may submit a written statement to the appropriate city clerk requesting that the registered voter receive an absent ballot for each city election conducted during the period specified in subsection 3.

2. A written statement submitted pursuant to subsection 1 must:

(a) ~~[Include a:~~

~~*(1) A statement from a physician licensed in this State certifying that the registered voter is a person with a physical disability and, because of the physical disability, is unable to mark or sign a ballot or use a voting device without assistance; or*~~

~~*(2) A copy of the driver's license, instruction permit or identification card of the registered voter issued by the Department of Motor Vehicles with a designation that the registered voter is disabled in a manner necessitating assistance in casting a ballot as described in section 16 or 22 of this act;*~~

~~(b)~~] Designate the person who will assist the registered voter in marking and signing the absent ballot on behalf of the registered voter; and

~~[(c)~~] *(b)* Include the name, address and signature of the person designated pursuant to paragraph ~~[(b).]~~ *(a).*

3. Upon receipt of a written statement submitted by a registered voter pursuant to subsection 1, the city clerk shall, if the statement includes the information required pursuant to subsection 2, issue an absent ballot to the registered voter for each city election that is conducted during the year immediately succeeding the date the written statement is submitted to the city clerk.

4. ~~[To determine whether a registered voter is entitled to receive an absent ballot pursuant to this section, the city clerk may, every year after an absent ballot is issued to a registered voter pursuant to subsection 3, require the registered voter to submit a statement from a licensed physician *or a copy of a driver's license, instruction permit or identification card* as specified in paragraph (a) of subsection 2. If a statement from a physician licensed in this State submitted pursuant to this subsection indicates that the registered voter is no longer physically disabled, *or the designation of the driver's license, instruction permit or identification card of the registered voter is no longer valid,* the city clerk shall not issue an absent ballot to the registered voter pursuant to this section.~~

~~5.~~] A person designated pursuant to paragraph ~~[(b)]~~ *(a)* of subsection 2 may, on behalf of and at the direction of the registered voter, mark and sign an absent ballot issued to the registered voter pursuant to the provisions of this section. If the person marks and signs the ballot, the person shall indicate next to his or her signature that the ballot has been marked and signed on behalf of the registered voter.

~~[6.~~] *5.* The procedure authorized pursuant to this section is subject to all other provisions of this chapter relating to voting by absent ballot to the extent that those provisions are not inconsistent with the provisions of this section.

Sec. 11. ~~[NRS 481.023 is hereby amended to read as follows:~~

~~481.023 1. Except as otherwise provided in this section and in the provisions of law described in this section, the Department shall execute, administer and enforce, and perform the functions and duties provided in:~~

~~(a) Chapter 108 of NRS, and perform such duties and exercise such powers relating to liens on vehicles as may be conferred upon it pursuant to chapter 108 of NRS or the provisions of any other law.~~

~~(b) Chapters 360A, 365, 366, 371 and 373 of NRS, relating to the imposition and collection of taxes on motor fuels.~~

~~(c) Chapters 481, 482 to 486, inclusive, and 487 of NRS, relating to motor vehicles. The Department shall not execute, administer or enforce, or perform the functions or duties provided in NRS 486.363 to 486.377, inclusive, relating to the education and safety of motorcycle riders.~~

~~(d) Chapter 706 of NRS relating to licensing of motor vehicle carriers and the use of public highways by those carriers.~~

~~(e) The provisions of NRS 426.401 to 426.461, inclusive.[.]~~ ~~*, and sections 2 and 3 of this act.*~~

~~2. The Department shall perform such other duties and exercise such other powers as may be conferred upon the Department.]~~ (Deleted by amendment.)

Sec. 12. ~~[Chapter 483 of NRS is hereby amended by adding thereto the provisions set forth as sections 13 to 22, inclusive, of this act.]~~ (Deleted by amendment.)

Sec. 13. ~~*["Disability" has the meaning ascribed to it in NRS 426.068.]*~~ (Deleted by amendment.)

Sec. 14. ~~*[1. When a person applies to the Department for an instruction permit or driver's license pursuant to NRS 483.290 or 483.291, the Department shall inquire whether the person desires to declare that he or she is a person with a disability.*~~

~~*2. If the person declares pursuant to subsection 1 that he or she is a person with a disability, the person shall provide a statement from a licensed physician certifying that the applicant is a person with a disability.]*~~ (Deleted by amendment.)

Sec. 15. ~~*[1. When a person applies to the Department for an instruction permit or driver's license pursuant to NRS 483.290, the Department shall inquire whether the person desires to declare that he or she is a person with a disability and is unable to mark or sign a ballot or use a voting device without assistance.*~~

~~*2. If the person declares pursuant to subsection 1 that he or she is a person with a disability and is unable to mark or sign a ballot or use a voting device without assistance, the person shall provide a statement from a licensed physician certifying that the applicant is a person with such a disability.]*~~ (Deleted by amendment.)

Sec. 16. ~~*[1. Upon the application of a person who requests that his or her instruction permit or driver's license indicate that he or she is a person with a disability pursuant to section 14 of this act, and who satisfies the requirements of that section, the Department shall place on any instruction permit or driver's license issued to the person pursuant to the provisions of this chapter a designation that the person is a person with a disability.*~~

~~*2. Upon the application of a person who requests that his or her instruction permit or driver's license indicate that he or she is a person with a disability and is unable to mark or sign a ballot or use a voting device without assistance pursuant to section 15 of this act, and who satisfies the requirements of that section, the Department shall place on any instruction permit or driver's license issued to the person pursuant to the provisions of this chapter a designation that the person is a person with a disability and is unable to mark or sign a ballot or use a voting device without assistance.*~~

~~*3. The Director shall determine the design and placement of the designations required by subsections 1 and 2 on any instruction permit or driver's license to which this section applies.*~~

~~*4. The Department, in consultation with the Secretary of State and the Nevada Commission on Services for Persons with Disabilities, shall adopt regulations governing the eligibility of a person for the designations described in subsections 1 and 2.]*~~ (Deleted by amendment.)

Sec. 17. ~~*[As used in NRS 483.810 to 483.890, inclusive, and sections 17 to 22, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 18 and 19 of this act have the meanings ascribed to them in those sections.]*~~ (Deleted by amendment.)

Sec. 18. ~~*["Disability" has the meaning ascribed to it in NRS 426.068.]*~~ (Deleted by amendment.)

Sec. 19. ~~*["Person who is blind" has the meaning ascribed to it in NRS 426.082.]*~~ (Deleted by amendment.)

Sec. 20. ~~*[1. When a person applies to the Department for an identification card pursuant to NRS 483.850, the Department shall inquire whether the person desires to declare that he or she is a person who is blind or a person with a disability.*~~

~~*2. If the person declares pursuant to subsection 1 that he or she is a person who is blind or a person with a disability, the person shall provide a statement from a licensed physician certifying that the applicant is a person who is blind or a person with a disability.]*~~ (Deleted by amendment.)

Sec. 21. ~~*[1. When a person applies to the Department for an identification card pursuant to NRS 483.850, the Department shall inquire whether the person desires to declare that he or she is a person who is blind or a person with a disability and is unable to mark or sign a ballot or use a voting device without assistance.*~~

~~*2. If the person declares pursuant to subsection 1 that he or she is a person who is blind or a person with a disability and is unable to mark or sign a ballot or use a voting device without assistance, the person shall provide a statement from a licensed physician certifying that the applicant is a person who is blind or a person with such a disability.]*~~ (Deleted by amendment.)

Sec. 22. ~~*[1. Upon the application of a person who requests that his or her identification card indicate that he or she is a person who is blind or a person with a disability pursuant to section 20 of this act, and who satisfies the requirements of that section, the Department shall place on the identification card issued to the person pursuant to the provisions of this chapter a designation that the person is a person who is blind or a person with a disability, as applicable.*~~

~~*2. Upon the application of a person who requests that his or her identification card indicate that he or she is a person who is blind or a person with a disability and is unable to mark or sign a ballot or use a voting device without assistance pursuant to section 21 of this act, and who satisfies*~~

~~*the requirements of that section, the Department shall place on the identification card issued to the person pursuant to the provisions of this chapter a designation that the person is a person who is blind or a person with a disability, as applicable, and is unable to mark or sign a ballot or use a voting device without assistance.*~~

~~*3. The Director shall determine the design and placement of the designations required by subsections 1 and 2 on any identification card to which this section applies.*~~

~~*4. The Department, in consultation with the Secretary of State, the Nevada Commission on Services for Persons with Disabilities and the Bureau of Services to Persons Who Are Blind or Visually Impaired, shall adopt regulations governing the eligibility of a person for the designations described in subsections 1 and 2.]~~ (Deleted by amendment.)

Sec. 23. ~~[NRS 483.010 is hereby amended to read as follows:~~

~~483.010 The provisions of NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* may be cited as the Uniform Motor Vehicle Drivers' License Act.]~~ (Deleted by amendment.)

Sec. 24. ~~[NRS 483.015 is hereby amended to read as follows:~~

~~483.015 Except as otherwise provided in NRS 483.330, the provisions of NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* apply only with respect to noncommercial drivers' licenses.]~~ (Deleted by amendment.)

Sec. 25. ~~[NRS 483.020 is hereby amended to read as follows:~~

~~483.020 As used in NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 483.030 to 483.190, inclusive, *and section 13 of this act* have the meanings ascribed to them in those sections.]~~ (Deleted by amendment.)

Sec. 26. ~~[NRS 483.230 is hereby amended to read as follows:~~

~~483.230 1. Except persons expressly exempted in NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act,* a person shall not drive any motor vehicle upon a highway in this State unless such person has a valid license as a driver under the provisions of NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* for the type or class of vehicle being driven.~~

~~2. Any person licensed as a driver under the provisions of NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* may exercise the privilege thereby granted upon all streets and highways of this State and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board or body having authority to adopt local police regulations.~~

~~3. Except persons expressly exempted in NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act,* a person shall not steer or exercise any degree of physical control of a vehicle being towed by a~~

~~motor vehicle upon a highway unless such person has a license to drive the type or class of vehicle being towed.~~

~~4. A person shall not receive a driver's license until the person surrenders to the Department all valid licenses in his or her possession issued to the person by this or any other jurisdiction. Surrendered licenses issued by another jurisdiction shall be returned by the Department to such jurisdiction. A person shall not have more than one valid driver's license.]~~ (Deleted by amendment.)

Sec. 27. ~~[NRS 483.240 is hereby amended to read as follows:~~

~~483.240 The following persons are exempt from license under the provisions of NRS 483.010 to 483.630, inclusive [:]~~, ~~*and sections 13 to 16, inclusive, of this act:*~~

~~1. Any person while driving a motor vehicle in the service of the Armed Forces.~~

~~2. Any person while driving any road machine, farm tractor or implement of husbandry temporarily operated or moved on a highway.~~

~~3. A nonresident who is at least 16 years of age and who has in his or her immediate possession a valid license issued to the person in his or her home state or country may drive a motor vehicle in this State of the type or class the person may operate in that home state or country.~~

~~4. Any nonresident who is at least 18 years of age, whose home state or country does not require the licensing of drivers, may drive a motor vehicle for a period of not more than 90 days in any calendar year, if the motor vehicle driven is duly registered in the home state or country of such nonresident.~~

~~5. A nonresident on active duty in the Armed Forces who has a valid license issued by the person's home state and such nonresident's spouse or dependent child who has a valid license issued by such state.~~

~~6. Any person on active duty in the Armed Forces who has a valid license issued in a foreign country by the Armed Forces may drive a motor vehicle for a period of not more than 45 days from the date of his or her return to the United States.]~~ (Deleted by amendment.)

Sec. 28. ~~[NRS 483.250 is hereby amended to read as follows:~~

~~483.250 The Department shall not issue any license pursuant to the provisions of NRS 483.010 to 483.630, inclusive [:]~~, ~~*and sections 13 to 16, inclusive, of this act:*~~

~~1. To any person who is under the age of 18 years, except that the Department may issue:~~

~~(a) A restricted license to a person between the ages of 14 and 18 years pursuant to the provisions of NRS 483.267 and 483.270.~~

~~(b) An instruction permit to a person who is at least 15 1/2 years of age pursuant to the provisions of subsection 1 of NRS 483.280.~~

~~(c) A restricted instruction permit to a person under the age of 18 years pursuant to the provisions of subsection 3 of NRS 483.280.~~

~~(d) A driver's license to a person who is 16 or 17 years of age pursuant to NRS 483.2521.~~

~~2. To any person whose license has been revoked until the expiration of the period during which the person is not eligible for a license.~~

~~3. To any person whose license has been suspended, but upon good cause shown to the Administrator, the Department may issue a restricted license to the person or shorten any period of suspension.~~

~~4. To any person who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to legal capacity.~~

~~5. To any person who is required by NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* to take an examination, unless the person has successfully passed the examination.~~

~~6. To any person when the Administrator has good cause to believe that by reason of physical or mental disability that person would not be able to operate a motor vehicle safely.~~

~~7. To any person who is not a resident of this State.~~

~~8. To any child who is the subject of a court order issued pursuant to title 5 of NRS or administrative sanctions imposed pursuant to NRS 392.148 which delay the child's privilege to drive.~~

~~9. To any person who is the subject of a court order issued pursuant to NRS 206.330 which delays the person's privilege to drive until the expiration of the period of delay.~~

~~10. To any person who is not eligible for the issuance of a license pursuant to NRS 483.283.]~~ (Deleted by amendment.)

Sec. 29. ~~[NRS 483.340 is hereby amended to read as follows:~~

~~483.340 1. The Department shall, upon payment of the required fee, issue to every qualified applicant a driver's license indicating the type or class of vehicles the licensee may drive.~~

~~2. The Department shall adopt regulations prescribing the information that must be contained on a driver's license.~~

~~3. The Department may issue a driver's license for purposes of identification only for use by officers of local police and sheriffs' departments, agents of the Investigation Division of the Department of Public Safety while engaged in special undercover investigations relating to narcotics or prostitution or for other undercover investigations requiring the establishment of a fictitious identity, federal agents while engaged in undercover investigations, investigators employed by the Attorney General while engaged in undercover investigations, criminal investigators employed by the Secretary of State while engaged in undercover investigations and agents of the State Gaming Control Board while engaged in investigations pursuant to NRS 463.140. An application for such a license must be made through the head of the police or sheriff's department, the Chief of the Investigation Division of the Department of Public Safety, the director of the appropriate federal agency, the Attorney General, the Secretary of State or~~

~~his or her designee or the Chair of the State Gaming Control Board. Such a license is exempt from the fees required by NRS 483.410. The Department, by regulation, shall provide for the cancellation of any such driver's license upon the completion of the special investigation for which it was issued.~~

~~4. Except as otherwise provided in NRS 239.0115, information pertaining to the issuance of a driver's license pursuant to subsection 3 is confidential.~~

~~5. It is unlawful for any person to use a driver's license issued pursuant to subsection 3 for any purpose other than the special investigation for which it was issued.~~

~~6. At the time of the issuance or renewal of the driver's license, the Department shall:~~

~~(a) Give the holder the opportunity to have indicated on his or her driver's license that the holder wishes to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his or her body or part thereof.~~

~~(b) Give the holder the opportunity to have indicated whether he or she wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.~~

~~(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.~~

~~(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on a driver's license pursuant to NRS 483.3485, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his or her driver's license.~~

~~*(e) Give the holder the opportunity, pursuant to section 16 of this act, to have indicated on his or her driver's license that the holder is:*~~

~~*(1) A person with a disability; or*~~

~~*(2) A person with a disability and is unable to mark or sign a ballot or use a voting device without assistance.*~~

~~7. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.~~

~~8. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 6 information from the records of the Department relating to persons who have drivers' licenses that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.~~] (Deleted by amendment.)

Sec. 30. ~~[NRS 483.370 is hereby amended to read as follows:~~

~~483.370 If an instruction permit or driver's license issued under the provisions of NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* is lost or destroyed, the person to whom the permit or license was issued may obtain a duplicate, or substitute thereof, upon:~~

~~1. Furnishing proof satisfactory to the Department that:~~

~~(a) The permit or license was lost or destroyed; and~~

~~(b) He or she is the person to whom that permit or license was issued.~~

~~2. Payment of the required fee.]~~ (Deleted by amendment.)

Sec. 31. ~~[NRS 483.420 is hereby amended to read as follows:~~

~~483.420 1. The Department is hereby authorized to cancel any driver's license upon determining that the licensee was not entitled to the issuance thereof pursuant to NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* or that the licensee failed to give the required or correct information in his or her application or committed any fraud in making an application.~~

~~2. Upon cancellation of a driver's license pursuant to subsection 1, the licensee shall surrender the license cancelled to the Department.~~

~~3. The Department is authorized to cancel any license that is voluntarily surrendered to the Department.]~~ (Deleted by amendment.)

Sec. 32. ~~[NRS 483.430 is hereby amended to read as follows:~~

~~483.430 1. The privilege of driving a motor vehicle on the highways of this State given to a nonresident under NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* shall be subject to suspension or revocation by the Department in like manner and for like cause as a driver's license issued under NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* may be suspended or revoked.~~

~~2. The Department is further authorized, upon receiving a record of the conviction in this State of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this State, to forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident.~~

~~3. When a nonresident's driving privilege is suspended or revoked in this State, the Department shall forward a copy of the record of such action to the motor vehicle administrator in the state where such driver resides.]~~ (Deleted by amendment.)

Sec. 33. ~~[NRS 483.450 is hereby amended to read as follows:~~

~~483.450 1. A record of conviction must be made in a manner approved by the Department. The court shall provide sufficient information to allow the Department to include accurately the information regarding the conviction in the driver's record.~~

~~2. The Department shall adopt regulations prescribing the information necessary to record the conviction in the driver's record.~~

~~3. Every court, including a juvenile court, having jurisdiction over violations of the provisions of NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* or any other law of this State or~~

~~municipal ordinance regulating the operation of motor vehicles on highways, shall forward to the Department:~~

~~(a) If the court is other than a juvenile court, a record of the conviction of any person in that court for a violation of any such laws other than regulations governing standing or parking; or~~

~~(b) If the court is a juvenile court, a record of any finding that a child has violated a traffic law or ordinance other than one governing standing or parking,~~

~~within 5 days after the conviction or finding, and may recommend the suspension of the driver's license of the person convicted or child found in violation of a traffic law or ordinance.~~

~~4. If a record forwarded to the Department pursuant to subsection 3 is a record of the conviction of a person who holds a commercial driver's license, the Department shall, within 5 days after the date on which it receives such a record, transmit notice of the conviction to the Commercial Driver's License Information System.~~

~~5. For the purposes of NRS 483.010 to 483.630, inclusive [:] , *and sections 13 to 16, inclusive, of this act:*~~

~~(a) "Conviction" has the meaning prescribed by regulation pursuant to NRS 481.052.~~

~~(b) A forfeiture of bail or collateral deposited to secure a defendant's appearance in court, if the forfeiture has not been vacated, is equivalent to a conviction.~~

~~6. The necessary expenses of mailing records of conviction to the Department as required by this section must be paid by the court charged with the duty of forwarding those records of conviction.~~

~~7. As used in this section, "Commercial Driver's License Information System" has the meaning ascribed to it in NRS 483.904.]~~ (Deleted by amendment.)

Sec. 34. ~~[NRS 483.460 is hereby amended to read as follows:~~

~~483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his or her conviction of any of the following offenses, when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:~~

~~(a) For a period of 3 years if the offense is:~~

~~(1) A violation of subsection 6 of NRS 484B.653.~~

~~(2) A third or subsequent violation within 7 years of NRS 484C.110 or 484C.120.~~

~~(3) A violation of NRS 484C.110 or 484C.120 resulting in a felony conviction pursuant to NRS 484C.400 or 484C.410.~~

~~(4) A violation of NRS 484C.430 or a homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430.~~

~~The period during which such a driver is not eligible for a license, permit or privilege to drive must be set aside during any period of imprisonment and the period of revocation must resume when the Department is notified pursuant to NRS 209.517 or 213.12185 that the person has completed the period of imprisonment or that the person has been placed on residential confinement or parole.~~

~~(b) For a period of 1 year if the offense is:~~

~~(1) Any other manslaughter, including vehicular manslaughter as described in NRS 484B.657, resulting from the driving of a motor vehicle or felony in the commission of which a motor vehicle is used, including the unlawful taking of a motor vehicle.~~

~~(2) Failure to stop and render aid as required pursuant to the laws of this State in the event of a motor vehicle accident resulting in the death or bodily injury of another.~~

~~(3) Perjury or the making of a false affidavit or statement under oath to the Department pursuant to NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* or pursuant to any other law relating to the ownership or driving of motor vehicles.~~

~~(4) Conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months.~~

~~(5) A second violation within 7 years of NRS 484C.110 or 484C.120 and the driver is not eligible for a restricted license during any of that period.~~

~~(6) A violation of NRS 484B.550.~~

~~(c) For a period of 90 days, if the offense is a first violation within 7 years of NRS 484C.110 or 484C.120.~~

~~2. The Department shall revoke the license, permit or privilege of a driver convicted of violating NRS 484C.110 or 484C.120 who fails to complete the educational course on the use of alcohol and controlled substances within the time ordered by the court and shall add a period of 90 days during which the driver is not eligible for a license, permit or privilege to drive.~~

~~3. When the Department is notified by a court that a person who has been convicted of a first violation within 7 years of NRS 484C.110 has been permitted to enter a program of treatment pursuant to NRS 484C.320, the Department shall reduce by one-half the period during which the person is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that the person was not accepted for or failed to complete the treatment.~~

~~4. The Department shall revoke the license, permit or privilege to drive of a person who is required to install a device pursuant to NRS 484C.460 but who operates a motor vehicle without such a device:~~

~~(a) For 3 years, if it is his or her first such offense during the period of required use of the device.~~

~~(b) For 5 years, if it is his or her second such offense during the period of required use of the device.~~

~~5. A driver whose license, permit or privilege is revoked pursuant to subsection 4 is not eligible for a restricted license during the period set forth in paragraph (a) or (b) of that subsection, whichever applies.~~

~~6. In addition to any other requirements set forth by specific statute, if the Department is notified that a court has ordered the revocation, suspension or delay in the issuance of a license pursuant to title 5 of NRS, NRS 176.064, 206.330 or 392.148, chapters 484A to 484E, inclusive, of NRS or any other provision of law, the Department shall take such actions as are necessary to carry out the court's order.~~

~~7. As used in this section, "device" has the meaning ascribed to it in NRS 484C.450.]~~ (Deleted by amendment.)

Sec. 35. ~~[NRS 483.510 is hereby amended to read as follows:~~

~~483.510 Any resident or nonresident whose driver's license or right or privilege to drive a motor vehicle in this State has been suspended or revoked, as provided in NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* shall not drive a motor vehicle in this State under a license, permit or registration certificate issued by any other jurisdiction, or otherwise, during such suspension or after such revocation until a license is obtained when and as permitted under NRS 483.010 to 483.630, inclusive~~ [.] ~~*, and sections 13 to 16, inclusive, of this act.]*~~ (Deleted by amendment.)

Sec. 36. ~~[NRS 483.530 is hereby amended to read as follows:~~

~~483.530 1. Except as otherwise provided in subsection 2, it is a misdemeanor for any person:~~

~~(a) To display or cause or permit to be displayed or possess any cancelled, revoked, suspended, fictitious, fraudulently altered or fraudulently obtained driver's license;~~

~~(b) To alter, forge, substitute, counterfeit or use an unvalidated driver's license;~~

~~(c) To lend his or her driver's license to any other person or knowingly permit the use thereof by another;~~

~~(d) To display or represent as one's own any driver's license not issued to him or her;~~

~~(e) To fail or refuse to surrender to the Department, a peace officer or a court upon lawful demand any driver's license which has been suspended, revoked or cancelled;~~

~~(f) To permit any unlawful use of a driver's license issued to him or her;~~

~~(g) To do any act forbidden, or fail to perform any act required, by NRS 483.010 to 483.630, inclusive~~ [;] ~~*, and sections 13 to 16, inclusive, of this act;* or~~

~~(h) To photograph, photostat, duplicate or in any way reproduce any driver's license or facsimile thereof in such a manner that it could be mistaken for a valid license, or to display or possess any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by this chapter.~~

~~2. Except as otherwise provided in this subsection, a person who uses a false or fictitious name in any application for a driver's license or identification card or who knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a fraud in any such application is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the false statement, knowing concealment of a material fact or other commission of fraud described in this subsection relates solely to the age of a person, including, without limitation, to establish false proof of age to game, purchase alcoholic beverages or purchase cigarettes or other tobacco products, the person is guilty of a misdemeanor.]~~ (Deleted by amendment.)

Sec. 37. ~~[NRS 483.570 is hereby amended to read as follows:~~

~~483.570 No person whose driving privilege as a nonresident has been cancelled, suspended or revoked, as provided in NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* shall drive any motor vehicle upon the highways of this State while such privilege is cancelled, suspended or revoked.]~~ (Deleted by amendment.)

Sec. 38. ~~[NRS 483.580 is hereby amended to read as follows:~~

~~483.580 A person shall not cause or knowingly permit his or her child or ward under the age of 18 years to drive a motor vehicle upon any highway when the minor is not authorized under the provisions of NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* or is in violation of any of the provisions of NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* or if the minor's license is revoked or suspended pursuant to title 5 of NRS or NRS 392.148.]~~ (Deleted by amendment.)

Sec. 39. ~~[NRS 483.590 is hereby amended to read as follows:~~

~~483.590 No person shall authorize or knowingly permit a motor vehicle owned by the person or under his or her control to be driven upon any highway by any person who is not authorized under NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* or in violation of any of the provisions of NRS 483.010 to 483.630, inclusive [.], *and sections 13 to 16, inclusive, of this act.]*~~ (Deleted by amendment.)

Sec. 40. ~~[NRS 483.600 is hereby amended to read as follows:~~

~~483.600 No person shall employ as a driver of a motor vehicle any person not then licensed as provided in NRS 483.010 to 483.630, inclusive [.], *and sections 13 to 16, inclusive, of this act.]*~~ (Deleted by amendment.)

Sec. 41. ~~[NRS 483.610 is hereby amended to read as follows:~~

~~483.610 1. No person shall rent a motor vehicle to any other person unless the latter person is then duly licensed under NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* or, in the case of a nonresident, then duly licensed under the laws of the state or country of his or her residence except a nonresident whose home state or country does not require that a driver be licensed.~~

~~2. No person shall rent a motor vehicle to another until the person has inspected the driver's license of the person to whom the vehicle is to be rented and compared and verified the signature thereon with the signature of such person written in his or her presence.~~

~~3. Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of the latter person and the date and place when and where the license was issued. Such record shall be open to inspection by any police officer or officer of the Department.~~] (Deleted by amendment.)

Sec. 42. ~~[NRS 483.620 is hereby amended to read as follows:~~

~~483.620 It is a misdemeanor for any person to violate any of the provisions of NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act,* unless such violation is, by NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* or other law of this State, declared to be a felony.~~] (Deleted by amendment.)

Sec. 43. ~~[NRS 483.630 is hereby amended to read as follows:~~

~~483.630 NRS 483.010 to 483.630, inclusive, *and sections 13 to 16, inclusive, of this act* shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them.~~] (Deleted by amendment.)

Sec. 44. ~~[NRS 483.820 is hereby amended to read as follows:~~

~~483.820 1. A person who applies for an identification card in accordance with the provisions of NRS 483.810 to 483.890, inclusive, *and sections 17 to 22, inclusive, of this act* and who is not ineligible to receive an identification card pursuant to NRS 483.861, is entitled to receive an identification card if the person is:~~

~~(a) A resident of this State and is 10 years of age or older and does not hold a valid driver's license or identification card from any state or jurisdiction; or~~

~~(b) A seasonal resident who does not hold a valid Nevada driver's license.~~

~~2. Except as otherwise provided in NRS 483.825, the Department shall charge and collect the following fees for the issuance of an original, duplicate or changed identification card:~~

~~An original or duplicate identification card issued to a person 65 years of age or older ..... $4~~

~~An original or duplicate identification card issued to a person under 18 years of age which expires on the eighth anniversary of the person's birthday ..... 6~~

~~A renewal of an identification card for a person under 18 years of age which expires on the eighth anniversary of the person's birthday ..... 6~~

~~An original or duplicate identification card issued to a person under 18 years of age which expires on or before the fourth anniversary of the person's~~

~~birthday..... 3~~

~~A renewal of an identification card for a person under 18 years of age which expires on or before the fourth anniversary of the person's birthday..... 3~~

~~An original or duplicate identification card issued to any person at least 18 years of age, but less than 65 years of age, which expires on the eighth anniversary of the person's birthday ..... 18~~

~~A renewal of an identification card for any person at least 18 years of age, but less than 65 years of age, which expires on the eighth anniversary of the person's birthday..... 18~~

~~An original or duplicate identification card issued to any person at least 18 years of age, but less than 65 years of age, which expires on or before the fourth anniversary of the person's birthday ..... 9~~

~~A renewal of an identification card for any person at least 18 years of age, but less than 65 years of age, which expires on or before the fourth anniversary of the person's birthday ..... 9~~

~~A new photograph or change of name, or both..... 4~~

~~3. The Department shall not charge a fee for:~~

~~(a) An identification card issued to a person who has voluntarily surrendered his or her driver's license pursuant to NRS 483.420; or~~

~~(b) A renewal of an identification card for a person 65 years of age or older.~~

~~4. Except as otherwise provided in NRS 483.825, the increase in fees authorized in NRS 483.347 must be paid in addition to the fees charged pursuant to this section.~~

~~5. As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.]~~ (Deleted by amendment.)

Sec. 45. ~~[~~NRS 483.840 is hereby amended to read as follows:

~~483.840 1. The form of the identification cards must be similar to that of drivers' licenses but distinguishable in color or otherwise.~~

~~2. Identification cards do not authorize the operation of any motor vehicles.~~

~~3. The Department shall adopt regulations prescribing the information that must be contained on an identification card.~~

~~4. At the time of the issuance or renewal of the identification card, the Department shall:~~

~~(a) Give the holder the opportunity to have indicated on his or her identification card that the holder wishes to be a donor of all or part of his or her body pursuant to NRS 451.500 to 451.598, inclusive, or to refuse to make an anatomical gift of his or her body or part thereof.~~

~~(b) Give the holder the opportunity to indicate whether he or she wishes to donate $1 or more to the Anatomical Gift Account created by NRS 460.150.~~

~~(c) Provide to each holder who is interested in becoming a donor information relating to anatomical gifts, including the procedure for registering as a donor with the donor registry with which the Department has entered into a contract pursuant to this paragraph. To carry out this paragraph, the Department shall, on such terms as it deems appropriate, enter into a contract with a donor registry that is in compliance with the provisions of NRS 451.500 to 451.598, inclusive.~~

~~(d) If the Department has established a program for imprinting a symbol or other indicator of a medical condition on an identification card pursuant to NRS 483.863, give the holder the opportunity to have a symbol or other indicator of a medical condition imprinted on his or her identification card.~~

~~*(e) Give the holder the opportunity, pursuant to section 22 of this act, to have indicated on his or her identification card that the holder is:*~~

~~*(1) A person who is blind or a person with a disability; or*~~

~~*(2) A person who is blind or a person with a disability and is unable to mark or sign a ballot or use a voting device without assistance.*~~

~~5. If the holder wishes to make a donation to the Anatomical Gift Account, the Department shall collect the donation and deposit the money collected in the State Treasury for credit to the Anatomical Gift Account.~~

~~6. The Department shall submit to the donor registry with which the Department has entered into a contract pursuant to paragraph (c) of subsection 4 information from the records of the Department relating to persons who have identification cards issued by the Department that indicate the intention of those persons to make an anatomical gift. The Department shall adopt regulations to carry out the provisions of this subsection.~~] (Deleted by amendment.)

Sec. 46. ~~[NRS 483.853 is hereby amended to read as follows:~~

~~483.853 1. Upon the application of a person who requests that his or her identification card indicate that he or she is a veteran of the Armed Forces of the United States pursuant to subsection 3 of NRS 483.852, and who satisfies the requirements of that subsection, the Department shall place on any identification card issued to the person pursuant to NRS 483.810 to 483.890, inclusive, *and sections 17 to 22, inclusive, of this act* a designation that the person is a veteran.~~

~~2. The Director shall determine the design and placement of the designation of veteran status required by subsection 1 on any identification card to which this section applies.~~] (Deleted by amendment.)

Sec. 47. ~~[NRS 483.865 is hereby amended to read as follows:~~

~~483.865 1. Upon the application of a person with a disability which limits or impairs the ability to walk, the Department shall place on any identification card issued to the person pursuant to NRS 483.810 to 483.890, inclusive, *and sections 17 to 22, inclusive, of this act* a designation that the person is a person with a disability. The application must include a statement~~

~~from a licensed physician certifying that the applicant is a person with a disability which limits or impairs the ability to walk.~~

~~2. For the purposes of this section, "person with a disability which limits or impairs the ability to walk" has the meaning ascribed to it in NRS 482.3835.]~~ (Deleted by amendment.)

Sec. 48. ~~[NRS 483.867 is hereby amended to read as follows:~~

~~483.867 Upon the application of a person who is a seasonal resident of this State, the Department shall place on any identification card issued to the person pursuant to NRS 483.810 to 483.890, inclusive~~ [:]~~, *and sections 17 to 22, inclusive, of this act:*~~

~~1. A designation indicating that the person is a seasonal resident; and~~

~~2. A statement indicating that the person holds a valid driver's license from another state or jurisdiction.]~~ (Deleted by amendment.)

Sec. 49. ~~[NRS 483.875 is hereby amended to read as follows:~~

~~483.875 1. Except as otherwise provided in NRS 483.861 and 483.870, an identification card and a renewal of an identification card issued pursuant to NRS 483.810 to 483.890, inclusive, *and sections 17 to 22, inclusive, of this act* expires as prescribed by regulation.~~

~~2. The Department shall adopt regulations prescribing when an identification card expires.~~

~~3. An identification card is renewable at any time before its expiration upon application and payment of the required fee.~~

~~4. The Department shall issue an identification card that is valid only during the time the applicant is authorized to stay in the United States, or if there is no definite end to the time the applicant is authorized to stay, the identification card is valid for 1 year beginning on the date of issuance.]~~ (Deleted by amendment.)

Sec. 50. This act becomes effective ~~[:~~

~~1. Upon]~~ 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 Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 457 to Senate Bill No. 248 replaces the original provisions of the bill and establishes that: 1) a person with a disability or an inability to read or write English remains entitled to assistance in casting a ballot if the need for such assistance is apparent or known to the election board; 2) a person with a disability or an inability to read or write English may request assistance in voting in any manner; and 3) an election board may not require a person with a disability or an inability to read or write English to sign a statement under penalty of perjury swearing that he or she requires assistance in casting a ballot.

Finally, the requirement that a person with a disability furnish a statement from a physician certifying that the person is a person with a physical disability as a prerequisite to the person receiving an absent ballot is eliminated.

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 1:02 p.m.

SENATE IN SESSION

At 1:03 p.m.

President Hutchison presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Ford moved that Senate Bill No. 331 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 254.

Bill read second time.

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

Amendment No. 470.

SUMMARY—Revises provisions relating to public works. (BDR 28-791)

AN ACT relating to public works; ~~[amending the definition of the term "public work" as it relates to buildings of the Nevada System of Higher Education;]~~ amending the amount of retainage authorized on public works and certain other works; extending existing provisions related to retainage; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law defines the term "public work" to mean a building of the Nevada System of Higher Education of which at least 25 percent of the costs are paid from money appropriated by this State or from federal money. (NRS 338.010) Section 1 of this bill amends this definition as it pertains to such buildings, designating a building of the Nevada System of Higher Education for which any public funds are used as a public work.]~~

Existing law requires a public body undertaking a public work to withhold as a retainage at least 5 percent from progress payments made to a contractor during the first half of the project. After completion of half of the project, the amount of the retainage becomes optional and any remaining progress payments or withheld retainage may be paid. (NRS 338.515) Section 2 of this bill requires the amount of the retainage to be 5 percent. ~~[Section 2 also requires that any withheld retainage be paid after half of the project is completed in certain situations where subcontractors have completed work on the project.]~~

Existing law provides that in private construction projects, not more than 10 percent of progress payments may be withheld from such payments by an

owner to a contractor and from a contractor to a subcontractor, and that such funds must be paid upon satisfaction of certain criteria including the issuance of a certificate of occupancy by a building inspector. (NRS 624.609, 624.620, 624.624) Sections 3 and 5 of this bill reduce the amount of retainage allowed from 10 percent to 5 percent. Section 4 of this bill requires that retained funds be paid upon the issuance of a temporary certificate of occupancy. Finally, section 6 of this bill repeals the expiration of certain provisions of existing law pertaining to retainage in public works which are set to expire on July 1, 2015. (NRS 338.515, 338.530, 338.555, 338.560, 338.595)

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

Section 1. ~~[NRS 338.010 is hereby amended to read as follows:~~

~~338.010 As used in this chapter:~~

~~1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.~~

~~2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.~~

~~3. "Contractor" means:~~

~~(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.~~

~~(b) A design-build team.~~

~~4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker or workers employed by them on public works by the day and not under a contract in writing.~~

~~5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.~~

~~6. "Design-build team" means an entity that consists of:~~

~~(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and~~

~~(b) For a public work that consists of:~~

~~(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.~~

~~(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.~~

~~7. "Design professional" means:~~

~~(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;~~

~~(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;~~

~~(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;~~

~~(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or~~

~~(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.~~

~~8. "Division" means the State Public Works Division of the Department of Administration.~~

~~9. "Eligible bidder" means a person who is:~~

~~(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or~~

~~(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.~~

~~10. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:~~

~~(a) General engineering contracting, as described in subsection 2 of NRS 624.215.~~

~~(b) General building contracting, as described in subsection 3 of NRS 624.215.~~

~~11. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.~~

~~12. "Horizontal construction" means the construction of any fixed work, including any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.~~

~~13. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent~~

~~political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.~~

~~14. "Offense" means failing to:~~

~~(a) Pay the prevailing wage required pursuant to this chapter;~~

~~(b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;~~

~~(c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or~~

~~(d) Comply with subsection 5 or 6 of NRS 338.070.~~

~~15. "Prime contractor" means a contractor who:~~

~~(a) Contracts to construct an entire project;~~

~~(b) Coordinates all work performed on the entire project;~~

~~(c) Uses his or her own workforce to perform all or a part of the public work; and~~

~~(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.~~

~~The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.~~

~~16. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.~~

~~17. "Public work" means any project for the new construction, repair or reconstruction of [.~~

~~(a) A]~~ *a* ~~project financed in whole or in part from public money for:~~

~~[(1)]~~ *(a)* ~~Public buildings;~~

~~[(2)]~~ *(b)* ~~Jails and prisons;~~

~~[(3)]~~ *(c)* ~~Public roads;~~

~~[(4)]~~ *(d)* ~~Public highways;~~

~~[(5)]~~ *(e)* ~~Public streets and alleys;~~

~~[(6)]~~ *(f)* ~~Public utilities;~~

~~[(7)]~~ *(g)* ~~Publicly owned water mains and sewers;~~

~~[(8)]~~ *(h)* ~~Public parks and playgrounds;~~

~~[(9)]~~ *(i)* ~~Public convention facilities which are financed at least in part with public money; [and~~

~~(10)]~~ *(j)* ~~All other publicly owned works and property [.~~

~~(b)]~~ *; and*

~~*(k)* 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.]~~ (Deleted by amendment.)

Sec. 2. NRS 338.515 is hereby amended to read as follows:

338.515 1. Except as otherwise provided in NRS 338.525, a public body and its officers or agents awarding a contract for a public work shall pay or cause to be paid to a contractor the progress payments due under the contract within 30 days after the date the public body receives the progress bill or within a shorter period if the provisions of the contract so provide.

~~[Not more than 95]~~ *Ninety five* percent of the amount of any progress payment ~~[may]~~ *must* be paid *and 5 percent withheld as retainage* until 50 percent of the work required by the contract has been performed.

2. After 50 percent of the work required by the contract has been performed, the public body may pay to the contractor:

(a) Any of the remaining progress payments without withholding additional retainage; and

(b) Any amount of any retainage that was withheld from progress payments pursuant to subsection 1,

➥ if, in the opinion of the public body, satisfactory progress is being made in the work.

3. After determining in accordance with subsection 2 whether satisfactory progress is being made in the work, the public body may ~~*[shall]*~~ pay to the contractor an amount of any retainage that was withheld from progress payments pursuant to subsection 1 if:

(a) A subcontractor has performed a portion of the work;

(b) *The contractor has determined that satisfactory progress is being made in the work under the subcontract with the subcontractor pursuant to NRS 338.555;*

(c) The public body determines that the portion of the work has been completed in compliance with all applicable plans and specifications;

~~[(c)]~~ *(d)* The subcontractor submits to the contractor:

(1) A release of the subcontractor's claim for a mechanic's lien for the portion of the work; and

(2) From each of the subcontractor's subcontractors and suppliers who performed work or provided material for the portion of the work, a release of his or her claim for a mechanic's lien for the portion of the work; and

~~[(d)]~~ *(e)* The amount of the retainage which the public body pays is in proportion to the portion of the work which the subcontractor has performed.

4. If, after determining in accordance with subsection 2 whether satisfactory progress is being made in the work, the public body continues to withhold retainage from remaining progress payments:

(a) If the public body does not withhold any amount pursuant to NRS 338.525:

(1) The public body may not withhold more than 2.5 percent of the amount of any progress payment; and

(2) Before withholding any amount pursuant to subparagraph (1), the public body must pay to the contractor 50 percent of the amount of any retainage that was withheld from progress payments pursuant to subsection 1; or

(b) If the public body withholds any amount pursuant to NRS 338.525:

(1) The public body may not withhold more than 5 percent of the amount of any progress payment; and

(2) The public body may continue to retain the amount of any retainage that was withheld from progress payments pursuant to subsection 1.

5. Except as otherwise provided in NRS 338.525, a public body shall identify in the contract and pay or cause to be paid to a contractor the actual cost of the supplies, materials and equipment that:

(a) Are identified in the contract;

(b) Have been delivered and stored at a location, and in the time and manner, specified in a contract by the contractor or a subcontractor or supplier for use in a public work; and

(c) Are in short supply or were specially made for the public work,

➥ within 30 days after the public body receives a progress bill from the contractor for those supplies, materials or equipment.

6. A public body shall pay or cause to be paid to the contractor at the end of each quarter interest for the quarter on any amount withheld by the public body pursuant to NRS 338.400 to 338.645, inclusive, at a rate equal to the rate quoted by at least three insured banks, credit unions or savings and loan associations in this State as the highest rate paid on a certificate of deposit whose duration is approximately 90 days on the first day of the quarter. If the amount due to a contractor pursuant to this subsection for any quarter is less than $500, the public body may hold the interest until:

(a) The end of a subsequent quarter after which the amount of interest due is $500 or more;

(b) The end of the fourth consecutive quarter for which no interest has been paid to the contractor; or

(c) The amount withheld under the contract is due pursuant to NRS 338.520,

➥ whichever occurs first.

7. If the Labor Commissioner has reason to believe that a worker is owed wages by a contractor or subcontractor, the Labor Commissioner may require the public body to withhold from any payment due the contractor under this section and pay the Labor Commissioner instead, an amount equal to the amount the Labor Commissioner believes the contractor owes to the worker. This amount must be paid by the Labor Commissioner to the worker if the matter is resolved in the worker's favor, otherwise it must be returned to the public body for payment to the contractor.

Sec. 3. NRS 624.609 is hereby amended to read as follows:

624.609 1. Except as otherwise provided in subsections 2 and 4 and subsection 4 of NRS 624.622, if an owner of real property enters into a written or oral agreement with a prime contractor for the performance of work or the provision of materials or equipment by the prime contractor, the owner must:

(a) Pay the prime contractor on or before the date a payment is due pursuant to a schedule for payments established in a written agreement; or

(b) If no such schedule is established or if the agreement is oral, pay the prime contractor within 21 days after the date the prime contractor submits a request for payment.

2. If an owner has complied with subsection 3, the owner may:

(a) Withhold from any payment to be made to the prime contractor:

(1) A retention amount that, if the owner is authorized to withhold a retention amount pursuant to the agreement, must not exceed ~~[10]~~ *5* percent of the amount of the payment to be made;

(2) An amount equal to the sum of the value of:

(I) Any work or labor that has not been performed or materials or equipment that has not been furnished for which payment is being sought, unless the agreement otherwise allows or requires such a payment to be made; and

(II) Costs and expenses reasonably necessary to correct or repair any work which is the subject of the request for payment and which is not materially in compliance with the agreement to the extent that such costs and expenses exceed 50 percent of the retention amount withheld pursuant to subparagraph (1); and

(3) The amount the owner has paid or is required to pay pursuant to an official notice from a state agency or employee benefit trust fund, for which the owner is or may reasonably be liable for the prime contractor or his or her lower-tiered subcontractors in accordance with chapter 608, 612, 616A to 616D, inclusive, or 617 of NRS; and

(b) Require as a condition precedent to the payment of any amount due, lien releases furnished by the prime contractor and his or her lower-tiered subcontractors and suppliers in accordance with the provisions of paragraphs (a) and (c) of subsection 5 of NRS 108.2457.

3. If, pursuant to subparagraph (2) or (3) of paragraph (a) of subsection 2 or paragraph (b) of subsection 2, an owner intends to withhold any amount from a payment to be made to a prime contractor, the owner must give, on or before the date the payment is due, a written notice to the prime contractor of any amount that will be withheld. The written notice of withholding must:

(a) Identify the amount of the request for payment that will be withheld from the prime contractor;

(b) Give a reasonably detailed explanation of the condition or the reason the owner will withhold that amount, including, without limitation, a specific reference to the provision or section of the agreement, and any documents relating thereto, and the applicable building code, law or regulation with which the prime contractor has failed to comply; and

(c) Be signed by an authorized agent of the owner.

4. A prime contractor who receives a notice of withholding pursuant to subsection 3 or a notice of objection pursuant to subparagraph (2) of paragraph (b) may:

(a) Give the owner a written notice and thereby dispute in good faith and for reasonable cause the amount withheld, or the condition or reason for the withholding; or

(b) Correct any condition or reason for the withholding described in the notice of withholding and thereafter provide written notice to the owner of the correction of the condition or reason for the withholding. The notice of

correction must be sufficient to identify the scope and manner of the correction of the condition or reason for the withholding and be signed by an authorized representative of the prime contractor. If an owner receives a written notice from the prime contractor of the correction of a condition or reason for the withholding pursuant to this paragraph, the owner shall:

(1) Pay the amount withheld by the owner for that condition or reason for the withholding on or before the date the next payment is due the prime contractor; or

(2) Object to the scope and manner of the correction of the condition or reason for the withholding, on or before the date the next payment is due to the prime contractor, in a written statement which sets forth the condition or reason for the objection and which complies with subsection 3. If the owner objects to the scope and manner of the correction of a condition or reason for the withholding, the owner shall nevertheless pay to the prime contractor, along with the payment to be made pursuant to the prime contractor's next payment request, the amount withheld for the correction of the condition or reason for the withholding to which the owner no longer objects.

5. Except as otherwise allowed in subsections 2, 3 and 4, an owner shall not withhold from a payment to be made to a prime contractor more than the retention amount.

Sec. 4. NRS 624.620 is hereby amended to read as follows:

624.620 1. Except as otherwise provided in this section, any money remaining unpaid for the construction of a work of improvement is payable to the prime contractor within 30 days after:

(a) Occupancy or use of the work of improvement by the owner or by a person acting with the authority of the owner; or

(b) The availability of a work of improvement for its intended use. The prime contractor must have provided to the owner:

(1) A written notice of availability on or before the day on which the prime contractor claims that the work of improvement became available for use or occupancy; or

(2) A certificate of occupancy *or temporary certificate of occupancy* issued by the appropriate building inspector or other authority.

2. If the owner has complied with subsection 3, the owner may:

(a) Withhold payment for the amount of:

(1) Any work or labor that has not been performed or materials or equipment that has not been furnished for which payment is sought;

(2) The costs and expenses reasonably necessary to correct or repair any work that is not materially in compliance with the agreement to the extent that such costs and expenses exceed 50 percent of the amount of retention being withheld pursuant to the terms of the agreement; and

(3) Money the owner has paid or is required to pay pursuant to an official notice from a state agency, or employee benefit trust fund, for which the owner is liable for the prime contractor or his or her lower-tiered

subcontractors in accordance with chapter 608, 612, 616A to 616D, inclusive, or 617 of NRS.

(b) Require, as a condition precedent to the payment of any unpaid amount under the agreement, that lien releases be furnished by the prime contractor and his or her lower-tiered subcontractors and suppliers in accordance with the provisions of paragraphs (a) and (c) of subsection 5 of NRS 108.2457.

3. If, pursuant to paragraph (a) of subsection 2, an owner intends to withhold any amount from a payment to be made to a prime contractor, the owner must, on or before the date the payment is due, give written notice to the prime contractor of any amount that will be withheld. The written notice of withholding must:

(a) Identify the amount that will be withheld from the prime contractor;

(b) Give a reasonably detailed explanation of the condition for which or the reason the owner will withhold that amount, including, without limitation, a specific reference to the provision or section of the agreement with the prime contractor, and any documents relating thereto, and the applicable building code, law or regulation with which the prime contractor has failed to comply; and

(c) Be signed by an authorized agent of the owner.

4. A prime contractor who receives a notice of withholding pursuant to subsection 3 may correct any condition or reason for the withholding described in the notice of withholding and thereafter provide written notice to the owner of the correction of the condition or reason for the withholding. The notice of correction must be sufficient to identify the scope and manner of the correction of the condition or reason for the withholding and be signed by an authorized representative of the prime contractor. If an owner receives a written notice from the prime contractor of the correction of a condition or reason for the withholding described in an owner's notice of withholding pursuant to subsection 3, the owner must, within 10 days after receipt of such notice:

(a) Pay the amount withheld by the owner for that condition or reason for the withholding; or

(b) Object to the scope and manner of the correction of the condition or reason for the withholding in a written statement that sets forth the reason for the objection and complies with subsection 3. If the owner objects to the scope and manner of the correction of a condition or reason for the withholding, the owner shall nevertheless pay to the prime contractor, along with the payment to be made pursuant to the prime contractor's next payment request, the amount withheld for the correction of the condition or reason for the withholding to which the owner no longer objects.

5. The partial occupancy or availability of a building requires payment in direct proportion to the value of the part of the building which is partially occupied or partially available. For works of improvement which involve

more than one building, each building must be considered separately in determining the amount of money which is payable to the prime contractor.

Sec. 5. NRS 624.624 is hereby amended to read as follows:

624.624 1. Except as otherwise provided in this section, if a higher-tiered contractor enters into:

(a) A written agreement with a lower-tiered subcontractor that includes a schedule for payments, the higher-tiered contractor shall pay the lower-tiered subcontractor:

(1) On or before the date payment is due; or

(2) Within 10 days after the date the higher-tiered contractor receives payment for all or a portion of the work, materials or equipment described in a request for payment submitted by the lower-tiered subcontractor,

➥ whichever is earlier.

(b) A written agreement with a lower-tiered subcontractor that does not contain a schedule for payments, or an agreement that is oral, the higher-tiered contractor shall pay the lower-tiered subcontractor:

(1) Within 30 days after the date the lower-tiered subcontractor submits a request for payment; or

(2) Within 10 days after the date the higher-tiered contractor receives payment for all or a portion of the work, labor, materials, equipment or services described in a request for payment submitted by the lower-tiered subcontractor,

➥ whichever is earlier.

2. If a higher-tiered contractor has complied with subsection 3, the higher-tiered contractor may:

(a) Withhold from any payment owed to the lower-tiered subcontractor:

(1) A retention amount that the higher-tiered contractor is authorized to withhold pursuant to the agreement, but the retention amount withheld must not exceed ~~[10]~~ *5* percent of the payment that is required pursuant to subsection 1;

(2) An amount equal to the sum of the value of:

(I) Any work or labor that has not been performed or materials or equipment that has not been furnished for which payment is being sought, unless the agreement otherwise allows or requires such a payment to be made; and

(II) Costs and expenses reasonably necessary to correct or repair any work which is the subject of the request for payment and which is not materially in compliance with the agreement to the extent that such costs and expenses exceed 50 percent of the retention amount withheld pursuant to subparagraph (1); and

(3) The amount the owner or higher-tiered contractor has paid or is required to pay pursuant to an official notice from a state agency or employee benefit trust fund, for which the owner or higher-tiered contractor is or may reasonably be liable for the lower-tiered subcontractor or his or her

lower-tiered subcontractors in accordance with chapter 608, 612, 616A to 616D, inclusive, or 617 of NRS; and

(b) Require as a condition precedent to the payment of any amount due, lien releases furnished by the lower-tiered subcontractor and his or her lower-tiered subcontractors and suppliers in accordance with the provisions of paragraphs (a) and (c) of subsection 5 of NRS 108.2457.

3. If, pursuant to subparagraph (2) or (3) of paragraph (a) of subsection 2 or paragraph (b) of subsection 2, a higher-tiered contractor intends to withhold any amount from a payment to be made to a lower-tiered subcontractor, the higher-tiered contractor must give, on or before the date the payment is due, a written notice to the lower-tiered subcontractor of any amount that will be withheld and give a copy of such notice to all reputed higher-tiered contractors and the owner. The written notice of withholding must:

(a) Identify the amount of the request for payment that will be withheld from the lower-tiered subcontractor;

(b) Give a reasonably detailed explanation of the condition or the reason the higher-tiered contractor will withhold that amount, including, without limitation, a specific reference to the provision or section of the agreement with the lower-tiered subcontractor, and any documents relating thereto, and the applicable building code, law or regulation with which the lower-tiered subcontractor has failed to comply; and

(c) Be signed by an authorized agent of the higher-tiered contractor.

4. A lower-tiered subcontractor who receives a notice of withholding pursuant to subsection 3 or a notice of objection pursuant to subparagraph (2) of paragraph (b) may:

(a) Give the higher-tiered contractor a written notice and thereby dispute in good faith and for reasonable cause the amount withheld or the conditions or reasons for the withholding; or

(b) Correct any condition or reason for the withholding described in the notice of withholding and thereafter provide written notice to the higher-tiered contractor of the correction of the condition or reason for the withholding. The notice of correction must be sufficient to identify the scope and manner of the correction of the condition or reason for the withholding and be signed by an authorized representative of the lower-tiered subcontractor. If a higher-tiered contractor receives a written notice from the lower-tiered subcontractor of the correction of a condition or reason for the withholding pursuant to this paragraph, the higher-tiered contractor shall:

(1) Pay the amount withheld by the higher-tiered contractor for that condition or reason for the withholding on or before the date the next payment is due the lower-tiered subcontractor; or

(2) Object to the scope and manner of the correction of the condition or reason for the withholding, on or before the date the next payment is due to the lower-tiered subcontractor, in a written statement which sets forth the condition or reason for the objection and which complies with subsection 3.

If the higher-tiered contractor objects to the scope and manner of the correction of a condition or reason for the withholding, the higher-tiered contractor shall nevertheless pay to the lower-tiered subcontractor, along with payment to be made pursuant to the lower-tiered subcontractor's next payment request, the amount withheld for the correction of the conditions or reasons for the withholding to which the higher-tiered contractor no longer objects.

5. Except as otherwise allowed in subsections 2, 3 and 4, a higher-tiered contractor shall not withhold from a payment to be made to a lower-tiered subcontractor more than the retention amount.

Sec. 6. Section 6 of chapter 289, Statutes of Nevada 2011, at page 1624, is hereby amended to read as follows:

Sec. 6. This act becomes effective on October 1, 2011 . ~~[, and expires by limitation on July 1, 2015.]~~

Sec. 7. The amendatory provisions of this act do not apply to the provisions of any contract entered into before January 1, 2016.

Sec. 8. 1. This section and section 6 of this act become effective upon passage and approval.

2. Sections 1 to 5, inclusive, and 7 of this act become effective on January 1, 2016.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Amendment No. 470 to Senate Bill No. 254 deletes section 1 that proposed to amend the definition of public work in relation to a building for the Nevada System of Higher Education; and deletes the requirement that a public body must pay the retainage to a contractor after half of the project is completed in certain situations, instead opting to leave in the existing permissive language.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 285.

Bill read second time.

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

Amendment No. 471.

SUMMARY—Revises provisions relating to local law enforcement agencies. (BDR 20-208)

AN ACT relating to local law enforcement agencies; revising provisions relating to the powers and duties of constables and deputy constables; exempting from certain provisions the sale of liquor by a sheriff or constable at a sale under execution; authorizing a constable to accept payment of certain fees by credit card, debit card or electronic transfer of money; authorizing a constable to require the payment to the constable of a convenience fee for the acceptance of payments by credit card, debit card or electronic transfer of money; revising the amount of certain fees which a constable is entitled to charge and collect; authorizing the appointment of

clerks for the constable of a township; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the sheriff of a county may authorize a constable to receive and execute the process, writs or warrants of courts of justice, judicial officers and coroners that have been delivered to the sheriff. (NRS 248.100) Sections 1-8 of this bill provide that such orders may be delivered directly to a constable who then must execute the orders.

Existing law requires the constable and each deputy constable in a township whose population is 15,000 or more, or a township that has within its boundaries a city whose population is 15,000 or more, to be certified as a category I or II peace officer by the Peace Officers' Standards and Training Commission. (NRS 258.007, 258.060, 258.070) Existing law also requires each constable to be a peace officer in his or her township and prohibits a constable or deputy constable from arresting any person while carrying out the duties of the office of a constable unless the constable or deputy is certified by the Commission as a category I or category II peace officer. Sections 10 and 12 of this bill instead require certification as a category II peace officer of the constable and each deputy constable of a township whose population: (1) is 100,000 or more, if the township is in a county whose population is 700,000 or more (currently Clark County); and (2) is 250,000 or more, if the township is in a county whose population is less than 700,000 (currently all counties other than Clark County).

Section 12.5 of this bill authorizes a board of county commissioners to appoint for the constable of a township a reasonable number of clerks and to fix the compensation of any clerks so appointed.

Section 13 of this bill provides that a constable or deputy constable has the powers of a peace officer only: (1) for the discharge of duties that are prescribed by law; (2) for the purpose of arresting a person in certain circumstances who has committed or attempted to commit a public offense in the presence of the constable or deputy constable; (3) in ~~[the]~~ an area ~~[of the township]~~ that is within the limits of an incorporated city, with the consent of the chief of police of the city; and (4) in ~~[the]~~ an area ~~[of the township]~~ that is not within the limits of an incorporated city, with the consent of the sheriff of the county. Additionally, section 13 prohibits a constable or deputy constable from carrying a firearm in the performance of his or her duties unless: (1) the constable has adopted a written policy on the use of deadly force; (2) a copy of the policy has been filed in the office of the appropriate county recorder; and (3) the constable and each deputy constable has received training regarding the policy. A constable or deputy constable authorized to carry a firearm pursuant to section 13 must receive training approved by the Commission in the use of firearms at least once every 6 months. Section 13 also requires a constable or deputy constable who wears a uniform in the performance of his or her duties to display prominently as part of that

uniform a badge or nameplate clearly displaying the name or an identification number of the constable or deputy.

Existing law authorizes a constable who determines that a motor vehicle is not properly registered to issue a citation to the owner or driver, as appropriate, of the vehicle, and to charge and collect a fee of $100 from the owner or driver. (NRS 258.070) Section 13 authorizes a constable to charge and collect the fee only upon the imposition of punishment pursuant to NRS 482.385 on the person to whom the citation is issued.

Section 15 of this bill increases certain fees to which constables are entitled for their services. Section 15 also authorizes a board of county commissioners to provide by ordinance for the fee to which a constable is entitled for providing a service authorized by law for which no fee is established by statute.

Existing law provides that the amount of certain fees which a constable is entitled to charge and collect must be calculated on the basis of the miles necessarily and actually traveled in providing a service. (NRS 258.125) Section 15 authorizes a board of county commissioners to provide by ordinance for a constable to charge and collect, at the option of the person paying the fee, a flat fee for those travel costs instead of a fee calculated on the basis of the miles traveled.

Section 9 of this bill authorizes a constable to accept payment of fees by credit card, debit card or the electronic transfer of money and authorizes a constable to charge and collect a convenience fee for the acceptance of such forms of payment under certain circumstances.

Existing law generally authorizes the sale of liquor only under certain circumstances and only by a person who holds the appropriate license issued by the Department of Taxation. (Chapter 369 of NRS) Sections 20-25 of this bill exempt from the licensure requirements of chapter 369 of NRS a sheriff or constable who sells or offers for sale liquor at a sale under execution. Sections 20-25 also provide that a person licensed under chapter 369 of NRS is not prohibited from purchasing liquor at such a sale under execution.

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

Section 1. NRS 248.100 is hereby amended to read as follows:

248.100 ~~[1.]~~ The sheriff shall:

~~[(a)]~~ *1.* Except in a county whose population is 700,000 or more, attend in person, or by deputy, all sessions of the district court in his or her county.

~~[(b)]~~ *2.* Obey all the lawful orders and directions of the district court in his or her county.

~~[(c) Except as otherwise provided in subsection 2, execute]~~

3. Execute the process, writs or warrants of courts of justice, judicial officers and coroners, when delivered to the sheriff for that purpose.

~~[2. The sheriff may authorize the constable of the appropriate township to receive and execute the process, writs or warrants of courts of justice, judicial officers and coroners.]~~

Sec. 2. NRS 248.120 is hereby amended to read as follows:

248.120 When any process, writ or order is delivered to the sheriff ~~[, or the constable as authorized pursuant to NRS 248.100,]~~ to be served or executed, the sheriff ~~[or constable]~~ shall:

1. Forthwith endorse upon it the year, month, day and hour of its receipt.

2. Give to the person delivering it, if required, on payment of his or her fee, a written memorandum signed by him or her, stating the names of the parties in the process or order, the nature thereof and the time it was received. He or she shall also deliver to the party served a copy thereof, if required so to do, without charge to such party.

Sec. 3. NRS 248.130 is hereby amended to read as follows:

248.130 A sheriff ~~[, or a constable authorized pursuant to NRS 248.100,]~~ to whom any process, writ, order or paper is delivered shall:

1. Execute the same with diligence, according to its command, or as required by law.

2. Return it without delay to the proper court or officer, with his or her certificate endorsed thereon of the manner of its service or execution, or, if not served or executed, the reasons for his or her failure.

➥ For a failure so to do, he or she shall be liable to the party aggrieved for all damages sustained by the party on account of such neglect.

Sec. 4. NRS 248.150 is hereby amended to read as follows:

248.150 ~~[Except as otherwise provided in NRS 248.100, if]~~ *If* the sheriff to whom a writ of execution or writ of attachment is delivered shall neglect or refuse, after being required by the creditor or the creditor's attorney to attach, or to levy upon or sell, any property of the party charged in the writ which is liable to be attached or levied upon and sold, the sheriff shall be liable on his or her official bond to the creditor for the value of such property.

Sec. 5. Chapter 258 of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 9, inclusive, of this act.

Sec. 6. *When any process, writ or order is delivered to the constable to be served or executed, the constable shall:*

1. Forthwith endorse upon it the year, month, day and hour of its receipt.

2. Give to the person delivering it, if required, on payment of his or her fee, a written memorandum signed by him or her, stating the names of the parties in the process or order, the nature thereof and the time it was received. He or she shall deliver to the party served a copy thereof, if required to do so, without charge to such party.

Sec. 7. *1. A constable to whom any process, writ, order or paper is delivered shall:*

(a) Execute the same with diligence, according to its command or as required by law.

(b) Return it without delay to the proper court or officer, with his or her certificate endorsed thereon of the manner of its service or execution, or, if not served or executed, the reasons for his or her failure.

2. A constable who fails to comply with subsection 1 is liable to the party aggrieved for all damages sustained by the party on account of such neglect.

Sec. 8. *If the constable to whom a writ of execution or writ of attachment is delivered neglects or refuses, after being required by the creditor or the creditor's attorney to attach, or to levy upon or sell, any property of the party charged in the writ which is liable to be attached or levied upon and sold, the constable is liable on his or her official bond to the creditor for the value of such property.*

Sec. 9. *1. A constable may enter into contracts with issuers of credit cards or debit cards or operators of systems that provide for the electronic transfer of money to provide for the acceptance of credit cards, debit cards or electronic transfers of money by the constable for the payment of fees to which the constable is entitled.*

2. If the issuer or operator charges the constable a fee for each use of a credit card or debit card or for each electronic transfer of money, the constable may require the cardholder or the person requesting the electronic transfer of money to pay a convenience fee. The total convenience fees charged by the constable in a fiscal year must not exceed the total amount of fees charged to the constable by the issuer or operator in that fiscal year.

3. As used in this section:

(a) "Cardholder" means the person or organization named on the face of a credit card or debit card to whom or for whose benefit the credit card or debit card is issued by an issuer.

(b) "Convenience fee" means a fee paid by a cardholder or person requesting the electronic transfer of money to a constable for the convenience of using the credit card or debit card or the electronic transfer of money to make such payment.

(c) "Credit card" means any instrument or device, whether known as a credit card or credit plate or by any other name, issued with or without a fee by an issuer for the use of the cardholder in obtaining money, property, goods, services or anything else of value on credit.

(d) "Debit card" means any instrument or device, whether known as a debit card or by any other name, issued with or without a fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds.

(e) "Electronic transfer of money" has the meaning ascribed to it in NRS 463.01473.

(f) "Issuer" means a business organization, financial institution or authorized agent of a business organization or financial institution that issues a credit card or debit card.

Sec. 10. NRS 258.007 is hereby amended to read as follows:

258.007 1. Each constable of a township whose population is ~~[15,000]~~ *100,000* or more ~~[or]~~ *and which is located in a county whose population is 700,000 or more, and each constable of* a township ~~[that has within its boundaries a city]~~ whose population is ~~[15,000]~~ *250,000* or more *and which is located in a county whose population is less than 700,000,* shall become

certified by the Peace Officers' Standards and Training Commission as a ~~[category I or]~~ category II peace officer within 1 year after the date on which the constable commences his or her term of office or appointment unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months.

2. If a constable does not comply with the provisions of subsection 1, the constable forfeits his or her office and a vacancy is created which must be filled in accordance with NRS 258.030.

Sec. 11. NRS 258.010 is hereby amended to read as follows:

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

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

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

(c) Constables must receive certificates of election from the boards of county commissioners of their respective counties.

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

3. In a county whose population:

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

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

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

Sec. 12. NRS 258.060 is hereby amended to read as follows:

258.060 1. All constables may appoint deputies, who are authorized to transact all official business pertaining to the office to the same extent as their principals. A person must not be appointed as a deputy constable unless the person has been a resident of the State of Nevada for at least 6 months before the date of the appointment. A person who is appointed as a deputy constable in a township whose population is ~~[15,000]~~ *100,000* or more *and*

which is located in a county whose population is 700,000 or more or *a deputy constable of* a township ~~[that has within its boundaries a city]~~ whose population is ~~[15,000]~~ *250,000* or more *and which is located in a county whose population is less than 700,000* may not commence employment as a deputy constable until the person is certified by the Peace Officers' Standards and Training Commission as a ~~[category I or]~~ category II peace officer. The appointment of a deputy constable must not be construed to confer upon that deputy policymaking authority for the office of the county constable or the county by which the deputy constable is employed.

2. Constables are responsible for the compensation of their deputies and are responsible on their official bonds for all official malfeasance or nonfeasance of the same. Bonds for the faithful performance of their official duties may be required of the deputies by the constables.

3. All appointments of deputies under the provisions of this section must be in writing and must, together with the oath of office of the deputies, be filed and recorded within 30 days after the appointment in a book provided for that purpose in the office of the recorder of the county within which the constable legally holds and exercises his or her office. Revocations of such appointments must also be filed and recorded as provided in this section within 30 days after the revocation of the appointment. From the time of the filing of the appointments or revocations therein, persons shall be deemed to have notice of the same.

Sec. 12.5. NRS 258.065 is hereby amended to read as follows:

258.065 1. The constable of a township may, subject to the approval of the board of county commissioners, appoint such clerical and operational staff as the work of the constable requires. The compensation of any person so appointed must be fixed by the board of county commissioners.

2. A person who is employed as clerical or operational staff of a constable:

(a) Does not have the powers of a peace officer; and

(b) May not possess a weapon or carry a concealed firearm, regardless of whether the person possesses a permit to carry a concealed firearm issued pursuant to NRS 202.3653 to 202.369, inclusive, while performing the duties of the office of the constable.

3. *The board of county commissioners may appoint for the constable of a township a reasonable number of clerks. The compensation of any clerk so appointed must be fixed by the board of county commissioners.*

4. A constable's clerk shall take the constitutional oath of office and give bond in the sum of $2,000 for the faithful discharge of the duties of the office, and in the same manner as is or may be required of other officers of that township and county.

~~[4.]~~ *5.* A constable's clerk shall do all clerical work in connection with keeping the records and files of the office, and shall perform such other duties in connection with the office as the constable shall prescribe.

Sec. 13. NRS 258.070 is hereby amended to read as follows:

258.070 1. Subject to the provisions of ~~[subsection 2,]~~ *subsections 2 and 3,* each constable shall:

(a) Be a peace officer . ~~[in his or her township.]~~

(b) ~~[Serve all mesne and final process issued by a court of competent jurisdiction.~~

~~(c)]~~ Execute the process, writs or warrants ~~[that the constable is authorized to receive pursuant to NRS 248.100.~~

~~(d)]~~ *of courts of justice, judicial officers and coroners, when delivered to the constable for that purpose.*

(c) Discharge such other duties as are or may be prescribed by law.

2. ~~[A]~~ *Subject to the provisions of subsection 3, a* constable or deputy constable ~~[elected or appointed in a township whose population is less than 15,000 or a township that has within its boundaries a city whose population is less than 15,000 may not arrest any person while carrying out the duties of the office of constable unless he or she is certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer.]~~ *has the powers of a peace officer only:*

(a) For the discharge of duties as are or may be prescribed by law;

(b) For the purpose of arresting a person for a public offense committed or attempted in the presence of the constable or deputy constable, if the constable or deputy constable has reasonable cause to believe that the arrest is necessary to prevent harm to other persons or the escape of the person who committed or attempted the public offense;

(c) In an area ~~[of the township that is]~~ within the limits of an incorporated city, with the consent of the chief of police of the city; and

(d) In an area ~~[of the township]~~ that is not within the limits of an incorporated city, with the consent of the sheriff of the county.

3. *The constable and each deputy constable of a township shall not carry a firearm in the performance of his or her duties unless:*

(a) The constable has adopted a written policy on the use of deadly force by the constable and each deputy constable;

(b) A copy of the policy adopted pursuant to paragraph (a) has been filed in the office of the county recorder of the county in which the township is located; and

(c) The constable and each deputy constable has received training regarding the policy.

4. A constable or deputy constable authorized to carry a firearm pursuant to subsection 3 must receive training approved by the Peace Officers' Standards and Training Commission in the use of firearms at least once every 6 months.

5. A constable or deputy constable who wears a uniform in the performance of his or her duties shall display prominently as part of that uniform a badge, nameplate or other uniform piece which clearly displays the name or an identification number of the constable or deputy constable.

6. Pursuant to the procedures and subject to the limitations set forth in chapters 482 and 484A to 484E, inclusive, of NRS, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle which is located in his or her township at the time the citation is issued and which is required to be registered in this State if the constable determines that the vehicle is not properly registered. ~~[The]~~ *Upon the imposition of punishment pursuant to NRS 482.385 on the person to whom the citation is issued, the* constable ~~[shall, upon the issuance of such citation,]~~ *is entitled to* charge and collect a fee of $100 from the person to whom the citation is issued, which may be retained by the constable as compensation.

~~[4.]~~ *7.* If a sheriff or the sheriff's deputy in any county in this State arrests a person charged with a criminal offense or in the commission of an offense, the sheriff or the sheriff's deputy shall serve all process, whether mesne or final, and attend the court executing the order thereof in the prosecution of the person so arrested, whether in a justice court or a district court, to the conclusion, and whether the offense is an offense of which a justice of the peace has jurisdiction, or whether the proceeding is a preliminary examination or hearing. The sheriff or the sheriff's deputy shall collect the same fees and in the same manner therefor as the constable of the township in which the justice court is held would receive for the same service.

Sec. 14. NRS 258.110 is hereby amended to read as follows:

258.110 ~~[Unless, pursuant to subsection 2 of NRS 258.070, a constable is prohibited from making an arrest, any]~~ *Any* constable who willfully refuses to ~~[receive or]~~ arrest any person charged with a criminal offense is guilty of a gross misdemeanor and shall be removed from office.

Sec. 15. NRS 258.125 is hereby amended to read as follows:

258.125 1. Constables are entitled to the following fees for their services:

For serving a summons or other process by which a suit is commenced in civil cases	$17
For summoning a jury before a justice of the peace	7
For taking a bond or undertaking	5
For serving an attachment against the property of a defendant	~~[9]~~ 15
For serving subpoenas, for each witness	15
For a copy of any writ, process or order or other paper, when demanded or required by law, per folio	3
For drawing and executing every constable's deed, to be paid by the grantee, who must also pay for the acknowledgment thereof	20
For each certificate of sale of real property under execution	5
For levying any writ of execution or writ of garnishment, or executing an order of arrest in civil cases, or order	

for delivery of personal property, with traveling fees as for summons ..... ~~[9]~~ 15

For serving one notice required by law before the commencement of a proceeding for any type of eviction 26

For serving not fewer than 2 nor more than 10 such notices to the same location, each notice 20

For serving not fewer than 11 nor more than 24 such notices to the same location, each notice 17

For serving 25 or more such notices to the same location, each notice 15

~~[For]~~ *Except as otherwise provided in subsection 3, for* mileage in serving such a notice, for each mile necessarily and actually traveled in going only 2

But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.

For each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a writ of restitution 21

For making and posting notices, and advertising property for sale on execution, not to include the cost of publication in a newspaper..... ~~[9]~~ 15

For each warrant lawfully executed *, unless a higher amount is established by the board of county commissioners*..... 48

~~[For]~~ *Except as otherwise provided in subsection 3, for* mileage in serving summons, attachment, execution, order, venire, subpoena, notice, summary eviction, writ of restitution or other process in civil suits, for each mile necessarily and actually traveled, in going only 2

But when two or more persons are served in the same suit, mileage may only be charged for the most distant, if they live in the same direction.

~~[For]~~ *Except as otherwise provided in subsection 3, for* mileage in making a diligent but unsuccessful effort to serve a summons, attachment, execution, order, venire, subpoena or other process in civil suits, for each mile necessarily and actually traveled, in going only 2

But mileage may not exceed $20 for any unsuccessful effort to serve such process.

2. A constable is also entitled to receive:

(a) For receiving and taking care of property on execution, attachment or order, *and for executing an order of arrest in civil cases,* the constable's

actual necessary expenses, to be allowed by the court which issued the writ or order, upon the affidavit of the constable that the charges are correct and the expenses necessarily incurred.

(b) For collecting all sums on execution or writ, to be charged against the defendant, on the first $3,500, 2 percent thereof, and on all amounts over that sum, one-half of 1 percent.

(c) For service in criminal cases, ~~[except for execution of warrants,]~~ the same fees as are allowed sheriffs for like services, to be allowed, audited and paid as are other claims against the county.

(d) For removing or causing the removal of, pursuant to NRS 487.230, a vehicle that has been abandoned on public property, $100.

(e) For providing any other service authorized by law for which no fee is established by this chapter, the fee provided for by ordinance by the board of county commissioners.

3. *For each service for which a constable is otherwise entitled pursuant to subsection 1 to a fee based on the mileage necessarily and actually traveled in performing the service, a board of county commissioners may provide by ordinance for the constable to be entitled, at the option of the person paying the fee, to a flat fee for the travel costs of that service.*

4. Deputy sheriffs acting as constables are not entitled to retain for their own use any fees collected by them, but the fees must be paid into the county treasury on or before the fifth working day of the month next succeeding the month in which the fees were collected.

~~[4.]~~ *5.* Constables shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees collected during the preceding month, except fees which may be retained as compensation.

Sec. 16. NRS 171.124 is hereby amended to read as follows:

171.124 1. Except as otherwise provided in subsection 3 and NRS 33.070 ~~[,]~~ *and* 33.320 *,* ~~[and 258.070,]~~ a peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may make an arrest in obedience to a warrant delivered to him or her, or may, without a warrant, arrest a person:

(a) For a public offense committed or attempted in the officer's presence.

(b) When a person arrested has committed a felony or gross misdemeanor, although not in the officer's presence.

(c) When a felony or gross misdemeanor has in fact been committed, and the officer has reasonable cause for believing the person arrested to have committed it.

(d) On a charge made, upon a reasonable cause, of the commission of a felony or gross misdemeanor by the person arrested.

(e) When a warrant has in fact been issued in this State for the arrest of a named or described person for a public offense, and the officer has reasonable cause to believe that the person arrested is the person so named or described.

2. A peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may also, at night, without a warrant, arrest any person whom the officer has reasonable cause for believing to have committed a felony or gross misdemeanor, and is justified in making the arrest, though it afterward appears that a felony or gross misdemeanor has not been committed.

3. An officer of the Drug Enforcement Administration may only make an arrest pursuant to subsections 1 and 2 for a violation of chapter 453 of NRS.

Sec. 17. NRS 212.150 is hereby amended to read as follows:

212.150 1. A person shall not visit, or in any manner communicate with, any prisoner convicted of or charged with any felony, imprisoned in the county jail, other than the officer having such prisoner in charge, the prisoner's attorney or the district attorney, unless the person has a written permission so to do, signed by the district attorney, or has the consent of the Director of the Department of Corrections or the ~~[constable or]~~ sheriff having such prisoner in charge.

2. Any person violating, aiding in, conniving at or participating in the violation of this section is guilty of a gross misdemeanor.

Sec. 18. NRS 289.150 is hereby amended to read as follows:

289.150 The following persons have the powers of a peace officer:

1. Sheriffs of counties and of metropolitan police departments, their deputies and correctional officers.

2. Marshals, police officers and correctional officers of cities and towns.

3. The bailiff of the Supreme Court.

4. The bailiffs and deputy marshals of the district courts, justice courts and municipal courts whose duties require them to carry weapons and make arrests.

5. ~~[Constables]~~ *Subject to the provisions of NRS 258.070, constables* and their deputies . ~~[whose official duties require them to carry weapons and make arrests.]~~

Sec. 19. NRS 289.470 is hereby amended to read as follows:

289.470 "Category II peace officer" means:

1. The bailiffs of the district courts, justice courts and municipal courts whose duties require them to carry weapons and make arrests;

2. ~~[Constables]~~ *Subject to the provisions of NRS 258.070, constables* and their deputies *;* ~~[whose official duties require them to carry weapons and make arrests;]~~

3. Inspectors employed by the Nevada Transportation Authority who exercise those powers of enforcement conferred by chapters 706 and 712 of NRS;

4. Special investigators who are employed full-time by the office of any district attorney or the Attorney General;

5. Investigators of arson for fire departments who are specially designated by the appointing authority;

6. The brand inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by chapter 565 of NRS;

7. The field agents and inspectors of the State Department of Agriculture who exercise the powers of enforcement conferred by NRS 561.225;

8. Investigators for the State Forester Firewarden who are specially designated by the State Forester Firewarden and whose primary duties are related to the investigation of arson;

9. School police officers employed by the board of trustees of any county school district;

10. Agents of the State Gaming Control Board who exercise the powers of enforcement specified in NRS 289.360, 463.140 or 463.1405, except those agents whose duties relate primarily to auditing, accounting, the collection of taxes or license fees, or the investigation of applicants for licenses;

11. Investigators and administrators of the Division of Compliance Enforcement of the Department of Motor Vehicles who perform the duties specified in subsection 2 of NRS 481.048;

12. Officers and investigators of the Section for the Control of Emissions From Vehicles and the Enforcement of Matters Related to the Use of Special Fuel of the Department of Motor Vehicles who perform the duties specified in subsection 3 of NRS 481.0481;

13. Legislative police officers of the State of Nevada;

14. Parole counselors of the Division of Child and Family Services of the Department of Health and Human Services;

15. Juvenile probation officers and deputy juvenile probation officers employed by the various judicial districts in the State of Nevada or by a department of juvenile justice services established by ordinance pursuant to NRS 62G.210 whose official duties require them to enforce court orders on juvenile offenders and make arrests;

16. Field investigators of the Taxicab Authority;

17. Security officers employed full-time by a city or county whose official duties require them to carry weapons and make arrests;

18. The chief of a department of alternative sentencing created pursuant to NRS 211A.080 and the assistant alternative sentencing officers employed by that department;

19. Criminal investigators who are employed by the Secretary of State; and

20. The Inspector General of the Department of Corrections and any person employed by the Department as a criminal investigator.

Sec. 20. Chapter 369 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this chapter which authorize the possession or sale of liquor only by a person who holds a license issued under this chapter do not apply to an officer or an officer's deputy who sells or offers for sale liquor at a sale under execution held pursuant to NRS 21.150.

2. It is not a violation of the provisions of this chapter if a person who holds a license issued under this chapter purchases any liquor at a sale under execution held pursuant to NRS 21.150.

Sec. 21. NRS 369.388 is hereby amended to read as follows:

369.388 ~~[A]~~ *Except as otherwise provided in subsection 2 of section 20 of this act, a* person who holds an importer's license or permit may purchase a liquor only from the supplier of that liquor.

Sec. 22. NRS 369.486 is hereby amended to read as follows:

369.486 1. ~~[A]~~ *Except as otherwise provided in subsection 2 of section 20 of this act, a* wholesaler who is not the importer designated by the supplier pursuant to NRS 369.386 may purchase liquor only from:

(a) The importer designated by the supplier pursuant to NRS 369.386 to import that liquor; or

(b) A wholesaler who purchased the liquor from the importer designated by the supplier pursuant to NRS 369.386 to import that liquor.

2. As used in this section, "supplier" means the brewer, distiller, manufacturer, producer, vintner or bottler of liquor, any subsidiary or affiliate of the supplier, or his or her designated agent.

Sec. 23. NRS 369.487 is hereby amended to read as follows:

369.487 Except as otherwise provided in NRS 369.4865 and 597.240, *and subsection 2 of section 20 of this act,* no retailer or retail liquor dealer may purchase any liquor from other than a state-licensed wholesaler.

Sec. 24. NRS 369.488 is hereby amended to read as follows:

369.488 1. Except as otherwise provided in NRS 369.4865, *and subsection 2 of section 20 of this act,* a retailer may purchase liquor only from:

(a) The importer designated by the supplier pursuant to NRS 369.386 to import that liquor if that importer is also a wholesaler; or

(b) A wholesaler who purchased liquor from the importer designated by the supplier pursuant to NRS 369.386 to import that liquor.

2. As used in this section, "supplier" means the brewer, distiller, manufacturer, producer, vintner or bottler of liquor, or his or her designated agent.

Sec. 25. NRS 369.490 is hereby amended to read as follows:

369.490 1. Except as otherwise provided in subsection 2, *and section 20 of this act,* a person shall not directly or indirectly, himself or herself or by his or her clerk, agent or employee, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any liquor in this State, or transport or import or cause to be transported or imported any liquor in or into this State for delivery, storage, use or sale therein, unless the person:

(a) Has complied fully with the provisions of this chapter; and

(b) Holds an appropriate, valid license, permit or certificate issued by the Department.

2. Except as otherwise provided in subsection 3, the provisions of this chapter do not apply to a person:

(a) Entering this State with a quantity of alcoholic beverage for household or personal use which is exempt from federal import duty;

(b) Who imports 1 gallon or less of alcoholic beverage per month from another state for his or her own household or personal use;

(c) Who:

(1) Is a resident of this State;

(2) Is 21 years of age or older; and

(3) Imports 12 cases or less of wine per year for his or her own household or personal use; or

(d) Who is lawfully in possession of wine produced on the premises of an instructional wine-making facility for his or her own household or personal use and who is acting in a manner authorized by NRS 597.245.

3. The provisions of subsection 2 do not apply to a supplier, wholesaler or retailer while he or she is acting in his or her professional capacity.

4. A person who accepts liquor shipped into this State pursuant to paragraph (b) or (c) of subsection 2 must be 21 years of age or older.

Sec. 26. NRS 482.231 is hereby amended to read as follows:

482.231 1. Except as otherwise provided in subsection 3, the Department shall not register a motor vehicle if a local authority has filed with the Department a notice stating that the owner of the motor vehicle:

(a) Was cited by a constable pursuant to subsection ~~[3]~~ *6* of NRS 258.070 for failure to comply with the provisions of NRS 482.385; and

(b) ~~[Has]~~ *After the imposition of punishment pursuant to NRS 482.385, has* failed to pay the fee charged by the constable pursuant to subsection ~~[3]~~ *6* of NRS 258.070.

2. The Department shall, upon request, furnish to the owner of the motor vehicle a copy of the notice of nonpayment described in subsection 1.

3. The Department may register a motor vehicle for which the Department has received a notice of nonpayment described in subsection 1 if:

(a) The Department receives:

(1) A receipt from the owner of the motor vehicle which indicates that the owner has paid the fee charged by the constable; or

(2) Notification from the applicable local authority that the owner of the motor vehicle has paid the fee charged by the constable; and

(b) The owner of the motor vehicle otherwise complies with the requirements of this chapter for the registration of the motor vehicle.

Sec. 27. NRS 258.072 is hereby repealed.

Sec. 28. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

258.072 Accident reports and related materials: Provision upon receipt of reasonable fee; exceptions. A constable shall, within 7 days after receipt of a written request of a person who claims to have sustained damages as a result of an accident, or the person's legal representative or insurer, and upon receipt of a reasonable fee to cover the cost of reproduction, provide the person, the person's legal representative or insurer, as applicable, with a copy

of the accident report and all statements by witnesses and photographs in the possession or under the control of the constable's office that concern the accident, unless:

1. The materials are privileged or confidential pursuant to a specific statute; or

2. The accident involved:

(a) The death or substantial bodily harm of a person;

(b) Failure to stop at the scene of an accident; or

(c) The commission of a felony.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Amendment No. 471 to Senate Bill No. 285 authorizes a board of county commissioners to appoint a reasonable number of clerks for the constable of a township and to set their salaries.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 286.

Bill read second time.

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

Amendment No. 594.

SUMMARY—Revises provisions relating to the Nevada Funeral and Cemetery Services Board. (BDR 54-905)

AN ACT relating to decedents; authorizing the Nevada Funeral and Cemetery Services Board to issue permits for the operation of direct cremation facilities and licenses to natural persons to engage in business as a ~~[death care consultant;]~~ funeral arranger; establishing certain provisions related to the operation and advertisement of direct cremation facilities; prohibiting a person from selling or offering to sell cremation services via the Internet unless the person owns a funeral establishment, crematory or direct cremation facility located in this State; requiring applicants for licenses, permits or certificates to submit fingerprints to the Board; establishing a continuing education requirement for funeral directors and embalmers; requiring certain applicants for a funeral director's license to ~~[complete a 1 year internship;]~~ have at least 1 year of active practice as a funeral arranger; standardizing at 2 years the duration of most licenses and permits issued by the Board; revising the priority of persons who are authorized to order the burial or cremation of a decedent; providing that a person who is arrested for or charged with murder or voluntary manslaughter may not act as the person authorized to order the burial or cremation of the decedent who the person is accused of killing; requiring an operator of a crematory to ensure that any person operating crematory equipment has completed a crematory certification program; repealing certain provisions related to the provision of funeral and crematory services; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Nevada Funeral and Cemetery Services Board and grants the Board authority to issue licenses, permits and certifications to cemeteries, crematories, funeral establishments, funeral directors, embalmers and persons engaged in direct cremations or immediate burials. (Chapters 451, 452 and 642 of NRS)

Sections 4 and 5 of this bill require a person to obtain, and authorize the Board to issue, a permit for the operation of a direct cremation facility. Section 5.5 of this bill prohibits a person from selling or offering to sell cremation services via the Internet unless the person owns a funeral establishment, crematory or direct cremation facility located within this State. Sections 6 and 7 of this bill require a person to obtain, and authorize the Board to issue, a license to engage in business as a ~~[death care consultant.]~~ funeral arranger. Section 8 of this bill requires all applicants for a license, permit or certificate issued by the Board to submit fingerprints and written authorization allowing the Board to conduct a criminal background check on the applicant. Section 9 of this bill establishes a continuing education requirement for licensed funeral directors and embalmers.

Existing law requires a holder of a license, permit or certificate issued by the Board to comply with certain federal regulations governing funeral industry practices (16 C.F.R. Part 453). (NRS 642.019) Section 14 of this bill adds the requirement that such a licensee, permittee or certificate holder also complies with the requirements of the federal Occupational Safety and Health Administration of the United States Department of Labor.

Existing law requires an investigator hired by the Board to investigate an alleged violation of chapter 451, 452 or 642 of NRS to report his or her findings to the Attorney General and further requires the Attorney General to take certain actions after receiving the report. (NRS 642.0677) Section 20 of this bill modifies the responsibilities of the Attorney General in this regard.

Under existing law, most licenses and permits issued by the Board have a duration of 1 year. (NRS 642.069, 642.090, 642.120, 642.300, 642.420, 642.435; NAC 642.100, 642.110, 642.120) Section 20.5 of this bill, with the exception of an embalmer's apprentice and an initial certificate to operate a cemetery, standardizes the licenses, permits and certificates issued by the Board at a duration of 2 years, to commence on January 1 of each even-numbered year.

Section 32 of this bill requires an applicant for a funeral director's license whose application is submitted on or after January 1, 2016, to demonstrate completion of 1 year of ~~[service as a certified funeral director intern.]~~ active practice as a funeral arranger in this State. This requirement can be waived by the Board if the applicant holds a license as a funeral director in another state. Section 43 of this bill establishes certain requirements relating to the operation of direct cremation facilities. Section 46 of this bill adds unethical practices contrary to the public interest to the list of acts constituting unprofessional conduct of a licensee, permittee or holder of a certificate for

which disciplinary action may be taken by the Board. Section 47 of this bill requires a direct cremation facility to indicate in any advertising the limited nature of the services that such a facility offers. Section 47 also prohibits any funeral establishment or direct cremation facility from advertising under any name other than the name indicated on the operating permit.

Existing law provides a listing of certain persons who may order the burial or cremation of a decedent and provides an order of priority for such persons. (NRS 451.024, 451.650) Section 54 of this bill adds cremation to NRS 451.024, thereby consolidating the provisions of NRS 451.024 with NRS 451.650. In addition, section 54 provides that a person who is arrested for or charged with the murder or voluntary manslaughter of a decedent is not authorized to order the burial or cremation of that decedent. Sections 54 and 57 of this bill also add certain provisions relating to the priority of persons authorized to order the burial or cremation of a decedent.

Section 55 of this bill requires operators of a crematory to ensure that any person operating crematory equipment has completed a crematory certification program approved by the Board. Section 63 of this bill repeals various sections of ~~[chapter]~~ chapters 451 and 642 of NRS including a section requiring a license to conduct direct cremations or immediate burials and the aforementioned NRS 451.650, which was consolidated with NRS 451.024.

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

Section 1. Chapter 642 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *~~["Death care consultant"]~~ "Funeral arranger" means any person employed by a funeral establishment or direct cremation facility who meets with families, or other persons authorized pursuant to NRS 451.024 to order the disposition of human remains of a deceased person, to plan funeral services for a decedent.*

Sec. 3. *"Direct cremation facility" means a place of business conducted at a specific street address or location devoted to direct cremations.*

Sec. 4. *1. The owner of a direct cremation facility located in this State shall not operate or allow another person to operate the facility unless the owner holds a valid permit issued by the Board to operate the direct cremation facility.*

2. If a person owns more than one direct cremation facility, the person must submit an application and obtain a permit for the operation of each direct cremation facility that he or she owns that is located in this State.

Sec. 5. *1. An application for a permit to operate a direct cremation facility must be submitted to the Executive Director of the Board, on a form and in a manner prescribed by the Board.*

2. Each applicant for a permit to operate a direct cremation facility must:

(a) Be at least 18 years of age; and

(b) Be of good moral character.

3. Each application must be accompanied by the application fee prescribed in NRS 642.0696.

4. The Board may conduct a physical inspection of a direct cremation facility before, and as a condition of, the issuance of a permit to operate a direct cremation facility.

Sec. 5.5. A person shall not sell or offer to sell cremation services within this State via the Internet unless the person owns a funeral establishment, crematory or direct cremation facility located within this State and is licensed pursuant to this chapter or chapter 451 of NRS.

Sec. 6. *1. A person shall not engage in or conduct, or hold himself or herself out as engaging in or conducting, the business of a ~~[death care consultant]~~ funeral arranger unless the person is licensed as a ~~[death care consultant]~~ funeral arranger by the Board.*

2. The business of a ~~[death care consultant]~~ funeral arranger must be conducted and engaged in at a funeral establishment or a direct cremation facility.

3. A person holding a valid license as a funeral director or embalmer in this State is not required to be licensed as a ~~[death care consultant]~~ funeral arranger pursuant to this section.

Sec. 7. *1. An application for a license as a ~~[death care consultant]~~ funeral arranger must be submitted to the Executive Director of the Board on a form and in a manner prescribed by the Board.*

2. Each applicant for a license as a ~~[death care consultant]~~ funeral arranger must:

(a) Be at least 18 years of age; and

(b) Be of good moral character.

3. Each applicant for a license as a ~~[death care consultant]~~ funeral arranger must, before being issued a license, pass an examination, prescribed by the Board, on the following subjects:

(a) The laws governing the preparation, burial and disposal of dead human bodies and the shipment of bodies of persons who have died from infectious or contagious diseases;

(b) Local health and sanitary ordinances and regulations relating to funeral practices;

(c) Federal regulations governing funeral practices; and

(d) The laws and regulations of this State relating to funeral practices.

4. Each application for a license as a ~~[death care consultant]~~ funeral arranger must be accompanied by the application fee and the examination fee prescribed in NRS 642.0696.

Sec. 8. *An applicant for any license, permit or certificate issued by the Board must submit as part of his or her application a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

Sec. 9. *1. A person licensed as a funeral director or embalmer must ~~[annually]~~ complete ~~[10]~~ 12 hours of continuing education in a field relevant to the funeral industry before renewal of his or her license and maintain proof of completion of those hours for a period of 5 years.*

2. A person licensed as both a funeral director and embalmer must complete a combined total of ~~[10]~~ 12 hours of continuing education courses to renew both licenses.

3. The Board may request proof of completion of the continuing education required pursuant to this section before renewing a license as a funeral director or embalmer.

Sec. 10. NRS 642.005 is hereby amended to read as follows:

642.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 642.010 to 642.0175, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 11. NRS 642.014 is hereby amended to read as follows:

642.014 "Disposition" means the immediate disposing of a dead human body or the immediate transporting of a dead human body to the care of a funeral establishment, *direct cremation facility,* responsible third party or the immediate family for direct cremation or burial.

Sec. 12. NRS 642.015 is hereby amended to read as follows:

642.015 1. "Funeral director" means a person engaged in, conducting the business of or holding himself or herself out as engaged in:

(a) Preparing or contracting to prepare by embalming or in any other manner dead human bodies for burial *, cremation* or disposal, or directing and supervising the burial *, cremation* or disposal of dead human bodies.

(b) Directing, supervising or contracting to direct or supervise funerals.

(c) The business of a funeral director by using the words "funeral director," "mortician" or any other title implying that the person is engaged in the business of funeral directing.

2. The term does not include:

(a) A licensed embalmer ~~[or *death care consultant,*]~~ *, a funeral arranger or* a person whose duties are limited to conducting direct cremations or immediate burials.

(b) An owner of a funeral establishment *or direct cremation facility,* unless the owner engages in any activity described in subsection 1.

Sec. 13. NRS 642.016 is hereby amended to read as follows:

642.016 "Funeral establishment" means a place of business conducted at a specific street address or location devoted to the care and preparation for burial *, cremation* or transportation of dead human bodies, consisting of a preparation room equipped with a sanitary floor, necessary drainage and ventilation, ~~[containing]~~ *having access to* necessary instruments and supplies for the preparation and embalming of dead human bodies for burial or transportation and having a display room containing an inventory of funeral caskets.

Sec. 14. NRS 642.019 is hereby amended to read as follows:

642.019 Each holder of a license, permit or certificate issued by the Board pursuant to this chapter or chapter 451 or 452 of NRS shall comply with the provisions of Part 453 of Title 16 of the Code of Federal Regulations ~~[.]~~ *and the requirements of the Occupational Safety and Health Administration of the United States Department of Labor.*

Sec. 15. NRS 642.0195 is hereby amended to read as follows:

642.0195 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license ~~[to practice the profession of embalming, a funeral director's license, a license to conduct direct cremations or immediate burials or a certificate of registration as an apprentice embalmer]~~ *, permit or certificate issued by the Board pursuant to this chapter or chapter 451 or 452 of NRS* shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license ~~[to practice the profession of embalming, a funeral director's license, a license to conduct direct cremations or immediate burials or a certificate of registration as an apprentice embalmer]~~ *, permit or certificate issued by the Board pursuant to this chapter or chapter 451 or 452 of NRS* shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

(a) The application or any other forms that must be submitted for the issuance or renewal of the license *, permit* or certificate *;* ~~[of registration;]~~ or

(b) A separate form prescribed by the Board.

3. A license *, permit* or certificate ~~[of registration]~~ described in subsection 1 may not be issued or renewed by the Board if the applicant:

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

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

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

Sec. 16. NRS 642.020 is hereby amended to read as follows:

642.020 1. The Nevada Funeral and Cemetery Services Board, consisting of seven members appointed by the Governor, is hereby created.

2. The Governor shall appoint:

(a) Two members who are actively engaged as a funeral director or embalmer.

(b) One member who is actively engaged as an operator of a cemetery.

(c) One member who is actively engaged in the operation of a crematory ~~[.]~~ *or direct cremation facility.*

(d) Three members who are representatives of the general public.

3. No member of the Board who is a representative of the general public may:

(a) Be the holder of a license *, permit* or certificate issued by the Board or be an applicant or former applicant for such a license *, permit* or certificate.

(b) Be related within the third degree of consanguinity or affinity to the holder of a license *, permit* or certificate issued by the Board.

(c) Be employed by the holder of a license *, permit* or certificate issued by the Board.

4. After the initial terms, members of the Board serve terms of 4 years, except when appointed to fill unexpired terms.

5. The Chair of the Board must be chosen from the members of the Board who are representatives of the general public.

Sec. 17. NRS 642.040 is hereby amended to read as follows:

642.040 1. The members of the Board shall have the power to select from their number a ~~[President,]~~ *Chair,* a Secretary and a Treasurer.

2. The Secretary shall keep:

(a) A record of all the meetings of the Board.

(b) A register of the names, residence addresses and business addresses of all ~~[embalmers]~~ *persons* duly licensed under the provisions of this chapter, and the numbers and dates of licenses. The register shall be open to public examination at all reasonable times. ~~[A copy of the register shall be furnished to all those registered and to the various railroad, transportation and express companies doing business in the State of Nevada.~~

~~3. The Treasurer shall give a bond, to be approved by the Board, in the sum of $500 for the honest and faithful discharge of his or her duties.]~~

Sec. 18. NRS 642.066 is hereby amended to read as follows:

642.066 1. The Board may publish a guide for persons who purchase services provided by cemeteries, crematories *, direct cremation facilities* and funeral establishments. The guide ~~[must]~~ *may* contain:

(a) A list of the name and address of each cemetery, crematory *, direct cremation facility* and funeral establishment located in the State.

(b) A list of the services and the price for each service provided by each cemetery, crematory *, direct cremation facility* and funeral establishment in this State.

(c) The procedure for filing a complaint with the Board concerning services provided by a cemetery, crematory *, direct cremation facility* or funeral establishment.

(d) Any other information which the Board deems appropriate and useful to the public.

2. If the Board publishes a guide, it shall:

(a) Maintain the guide by republishing it with revised information ~~[at least once each year.]~~ *as it deems necessary.*

(b) Distribute the guide and the information contained in the guide in any manner it deems appropriate.

Sec. 19. NRS 642.067 is hereby amended to read as follows:

642.067 The Board shall employ an inspector to aid in the enforcement of this chapter and chapters 451 and 452 of NRS and the regulations adopted pursuant thereto, whose compensation and expenses must be paid out of the fees collected by the Board. The inspector shall, at least once every 2 years and at the direction of the Board, conduct an inspection of every premises in this State at which the business of funeral directing *or* ~~*[death care consulting]*~~ *funeral arranging* is conducted *,* or *direct cremation or* embalming is practiced. A member of the Board shall not conduct any such inspection.

Sec. 20. NRS 642.0677 is hereby amended to read as follows:

642.0677 1. A member of the Board's staff who is designated by the Board may investigate an alleged violation of any provision of this chapter or chapter 451 or 452 of NRS, any regulation adopted pursuant thereto or any order of the Board.

2. The designated member of the Board's staff shall report his or her findings to the Attorney General, who shall ~~[:]~~ *recommend:*

(a) ~~[Dismiss]~~ *Dismissing* the investigation;

(b) ~~[Proceed]~~ *Proceeding* in accordance with the provisions of this chapter or chapter 451 or 452 of NRS, as appropriate, and chapter 233B of NRS; or

(c) ~~[Investigate]~~ *Investigating* the matter further before acting pursuant to paragraph (a) or (b).

Sec. 20.5. NRS 642.069 is hereby amended to read as follows:

642.069 1. The Board shall charge and collect ~~[an annual]~~ *a biennial* fee from each holder of a license or certificate issued by the Board pursuant to chapter 451 or 452 of NRS.

2. The Board shall adopt regulations which establish the ~~[annual]~~ *biennial* fee in an amount that is sufficient in the aggregate, together with the fees received from applicants during the previous ~~[year,]~~ *biennium,* to defray the Board's necessary expenses in performing its duties pursuant to chapters 451 and 452 of NRS.

3. Except as otherwise provided in NRS 452.340, 642.300, 642.350 and 642.450, any license, permit or certificate issued or renewed by the Board pursuant to this chapter or chapters 451 and 452 of NRS must be renewed on

a biennial basis on January 1 of each even-numbered year in accordance with the applicable provisions of this chapter or chapters 451 or 452 of NRS.

Sec. 21. NRS 642.070 is hereby amended to read as follows:

642.070 All fees collected under the provisions of this chapter and chapters 451 and 452 of NRS must be paid to the ~~[Treasurer of the]~~ Board to be used to defray the necessary expenses of the Board. The ~~[Treasurer]~~ *Board* shall deposit the fees in banks, credit unions or savings and loan associations in the State of Nevada.

Sec. 21.5. NRS 642.080 is hereby amended to read as follows:

642.080 Except as otherwise provided in NRS 642.100, an applicant for a license to practice the profession of embalming in the State of Nevada shall:

1. Have attained the age of 18 years.
2. Be of good moral character.
3. Be a high school graduate and have completed 2 academic years of instruction by taking 60 semester or 90 quarter hours at an accredited college or university. Credits earned at an embalming college or school of mortuary science do not fulfill this requirement.
4. Have completed 12 full months of instruction in an embalming college or school of mortuary science which is accredited by the ~~[International Conference of Funeral Service Examining Boards]~~ *American Board of Funeral Service Education* and approved by the Board, and have not less than 1 year's practical experience under the supervision of an embalmer licensed in the State of Nevada.
5. Have actually embalmed at least 50 bodies under the supervision of a licensed embalmer prior to the date of application.
6. Present to the Board affidavits of at least two reputable residents of the county in which the applicant proposes to engage in the practice of an embalmer to the effect that the applicant is of good moral character.

Sec. 22. NRS 642.090 is hereby amended to read as follows:

642.090 1. Every person who wishes to practice the profession of embalming ~~[must appear before the Board and]~~ must be examined in the knowledge of the subjects set forth in subsection 5.

2. If a person is a registered apprentice, the person must fulfill the requirements of NRS 642.310 and 642.330 before the person may take the examination.

3. If a person is not a registered apprentice, the person must pay the examination fee prescribed in NRS 642.0696 before the person may take the examination.

4. Examinations must be in writing, and the Board may require actual demonstration on a cadaver. An applicant who has passed the national examination given by the International Conference of Funeral Service Examining Boards is not required to take any portion of the examination set forth in subsection 5 that repeats or duplicates a portion of the national

examination. All examination ~~[papers]~~ *scores* must be kept on record by the Board.

5. The members of the Board shall examine applicants for licenses in the following subjects:

(a) Anatomy, sanitary science and signs of death.

(b) Care, disinfection, preservation, transportation of and burial or other final disposition of dead bodies.

(c) The manner in which death may be determined.

(d) The prevention of the spread of infectious and contagious diseases.

(e) Chemistry, including toxicology.

(f) Restorative art, including plastic surgery and derma surgery.

(g) The laws and regulations of this State relating to funeral directing , ~~*[death care consulting]*~~ *funeral arranging* and embalming.

(h) Regulations of the State Board of Health relating to infectious diseases and quarantine.

(i) Any other subject which the Board may determine by regulation to be necessary or proper to prove the efficiency and qualification of the applicant.

6. If an applicant fulfills the requirements set forth in this chapter to be licensed to practice the profession of embalming, has passed the examination required by this chapter and has paid all fees related to the application and the examination, the Board shall issue to the applicant a license to practice the profession of embalming . ~~[for 1 year.]~~

Sec. 22.5. NRS 642.100 is hereby amended to read as follows:

642.100 Reciprocity may be arranged by the Board if an applicant:

1. Is a graduate of an embalming college or a school of mortuary science which is accredited by the ~~[International Conference of Funeral Service Examining Boards]~~ *American Board of Funeral Service Education* and approved by the Board;

2. Is licensed as an embalmer in another state;

3. Has practiced embalming successfully for at least 5 years and practiced actively for 2 years immediately preceding the application for a license by reciprocity;

4. Is of good moral character;

5. Has passed the examination given by the Board on the subjects set forth in subsection 5 of NRS 642.090 or the national examination given by the International Conference of Funeral Service Examining Boards;

6. Possesses knowledge of the applicable statutes and regulations of this State governing embalmers; and

7. Pays to the Secretary of the Board the fees prescribed in NRS 642.0696.

Sec. 23. NRS 642.110 is hereby amended to read as follows:

642.110 1. All licenses shall be signed by the ~~[President]~~ *Chair* and the Secretary of the Board and attested by the seal of the Board.

2. Each license shall specify the name of the person to whom issued. Every license shall be nonassignable and nontransferable, and shall be

displayed by each licensee in a conspicuous place in the office or place of business of the licensee.

Sec. 23.5. NRS 642.120 is hereby amended to read as follows:

642.120 1. If a licensee wishes to renew his or her license, the Board shall renew the license, except for cause, if the licensee complies with the provisions of this section.

2. The renewal fee prescribed in NRS 642.0696 and all information required to complete the renewal are due on January 1 of each *even-numbered* year. If the renewal fee is not paid or all required information is not submitted by February 1 ~~,~~ *of that even-numbered year,* a fee for the late renewal of the license will be added to the renewal fee, and in no case will the fee for late renewal be waived.

3. Upon receipt of the renewal fee, all required information and any fee for late renewal imposed pursuant to subsection 2, the Board shall issue a renewal certificate to the licensee.

Sec. 24. NRS 642.130 is hereby amended to read as follows:

642.130 The following acts are grounds for which the Board may take disciplinary action against a person who is licensed to practice the profession of embalming pursuant to this chapter or refuse to issue such a license to an applicant therefor:

1. Gross incompetency.
2. Unprofessional, unethical or dishonest conduct.
3. Habitual intemperance.
4. Fraud or misrepresentation in obtaining or attempting to obtain a license to practice the profession of embalming.
5. Employment by the licensee of persons commonly known as "cappers," "steerers" or "solicitors," or of other persons to obtain funeral directing *,* ~~[death care consulting]~~ *funeral arranging* or embalming business.
6. Malpractice.
7. Gross immorality.
8. The unlawful use of any controlled substance.
9. Conviction of a felony relating to the practice of embalming.
10. False or misleading advertising as defined in NRS 642.490, or false or misleading statements in the sale of merchandise or services.
11. Refusal to surrender promptly the custody of a dead human body upon the request of a person who is legally entitled to custody of the body.
12. Violation by the licensee of any provision of this chapter, any regulation adopted pursuant thereto, any order of the Board or any other law of this State relating to the practice of any of the professions regulated by the Board.
13. The theft or misappropriation of money in a trust fund established and maintained pursuant to chapter 689 of NRS.

Sec. 25. NRS 642.210 is hereby amended to read as follows:

642.210 1. An applicant for a certificate of registration as a registered apprentice shall immediately notify the ~~[Secretary of the]~~ Board of such fact in order to receive credit for time spent.

2. Credit on the required apprenticeship commences on the date the application for the certificate of registration is filed with the ~~[Secretary of the]~~ Board, and no applications may be accepted antedated.

Sec. 26. NRS 642.230 is hereby amended to read as follows:

642.230 Apprentices shall be registered with the ~~[Secretary of the]~~ Board at the time of beginning of apprenticeship, and notice of termination of the same during interim, in case an apprentice changes tutor, shall be forwarded to the ~~[Secretary of the]~~ Board, giving the date of termination with the first instructor and the date of beginning with the second instructor, and each subsequent instructor in like manner as provided in this chapter for the first instructor.

Sec. 27. NRS 642.240 is hereby amended to read as follows:

642.240 Each licensed embalmer who has under his or her supervision or control a registered apprentice shall report such fact to the Board semiannually on or before January 1 and July 1 of each year. The ~~[Secretary of the]~~ Board shall immediately forward to such embalmer forms wherein information desired by the Board shall be requested by interrogations. Such reports shall disclose the work which such apprentice has performed during the semiannual period preceding the first of the month on which such report is made, including the number of bodies such apprentice has assisted in embalming or otherwise prepared for disposition during that period.

Sec. 28. NRS 642.290 is hereby amended to read as follows:

642.290 1. A registered apprentice may apply for a leave of absence and for the extension of any leave of absence by:

(a) Filing an application with the ~~[Secretary of the]~~ Board; and

(b) Paying any fees related to the application.

2. The application may be granted by the Board, if the facts of the case disclose sufficient reason for granting the request.

Sec. 28.5. NRS 642.300 is hereby amended to read as follows:

642.300 1. ~~[A]~~ *Notwithstanding the provisions of NRS 642.069, a* certificate of registration expires 1 year after the date of issuance of the certificate by the Board, unless the certificate is renewed in accordance with the regulations adopted by the Board.

2. No person may hold a certificate of registration as a registered apprentice entitling the person to practice the occupation of an embalmer's apprentice under a licensed embalmer more than 2 consecutive years without successfully passing the examination for a license to practice the profession of embalming pursuant to NRS 642.090.

Sec. 29. NRS 642.310 is hereby amended to read as follows:

642.310 Before a registered apprentice may take the examination for a license to practice the profession of embalming pursuant to NRS 642.090, the registered apprentice must file an application with the ~~[Secretary of the]~~

Board and pay the examination fee prescribed in NRS 642.0696, not later than 30 days before the date of such examination.

Sec. 30. NRS 642.340 is hereby amended to read as follows:

642.340 1. A person shall not engage in or conduct, or hold himself or herself out as engaging in or conducting, the business of a funeral director unless the person is licensed as a funeral director by the Board.

2. The business of a funeral director must be conducted and engaged in at a funeral establishment ~~[.]~~ *or direct cremation facility.*

Sec. 31. NRS 642.345 is hereby amended to read as follows:

642.345 1. A funeral director shall not manage a funeral establishment *or direct cremation facility* unless the funeral director has been approved by the Board to manage the funeral establishment ~~[.]~~ *or direct cremation facility.*

2. If a funeral director manages more than one funeral establishment ~~[,]~~ *or direct cremation facility,* the funeral director must obtain approval from the Board for each funeral establishment *or direct cremation facility* that he or she manages.

3. A funeral director is responsible for the proper management of each funeral establishment *or direct cremation facility* of which the funeral director is the manager.

Sec. 31.5. NRS 642.350 is hereby amended to read as follows:

642.350 Any funeral director who, on July 1, 1959, is engaged in or conducting the business of a funeral director, at a fixed place or establishment in this State, must be issued a license upon application therefor made within 30 days after July 1, 1959, and may continue in business for the remainder of the year. ~~[Such]~~ *Notwithstanding the provisions of NRS 642.069, such* a funeral director may have the license renewed annually upon payment of such renewal fees as are required by NRS 642.420.

Sec. 32. NRS 642.360 is hereby amended to read as follows:

642.360 1. An application for a funeral director's license ~~[or a license to conduct direct cremations or immediate burials]~~ must be in writing and verified on a form provided by the Board.

2. Each applicant must be over 18 years of age and of good moral character.

3. Except as otherwise provided in subsection 4, each applicant for a funeral director's license must pass an examination given by the Board upon the following subjects:

(a) The signs of death.

(b) The manner by which death may be determined.

(c) The laws governing the preparation, burial and disposal of dead human bodies, and the shipment of bodies of persons ~~[dying]~~ *who have died* from infectious or contagious diseases.

(d) Local health and sanitary ordinances and regulations relating to funeral directing and embalming.

(e) Federal regulations governing funeral practices.

(f) The laws and regulations of this State relating to funeral directing , ~~*[death care consulting]*~~ *funeral arranging* and embalming.

4. An applicant who has passed the national examination given by the International Conference of Funeral Service Examining Boards is not required to take any portion of the examination set forth in subsection 3 that repeats or duplicates a portion of the national examination.

5. *An applicant for a funeral director's license whose application is submitted on or after January 1, 2016, must have completed, before submission of the application, 1 year of* ~~*[service as a certified funeral director intern]*~~ *active practice as a funeral arranger in this State. This requirement may be waived by the Board if the applicant has held a license as a funeral director in another state for at least 1 year before submitting his or her application for a funeral director's license in this State.*

6. An application for ~~[:~~

~~(a) A]~~ *a* funeral director's license must be accompanied by the application fee and the examination fee prescribed in NRS 642.0696.

~~[(b) A license to conduct direct cremations or immediate burials must be accompanied by the application fee prescribed in NRS 642.0696.]~~

Sec. 33. NRS 642.365 is hereby amended to read as follows:

642.365 1. An application for a permit to operate a funeral establishment must be in writing and be verified on a form provided by the Board.

2. Each applicant must *:* ~~[furnish proof satisfactory to the Board that:]~~

(a) ~~[The applicant is]~~ *Be* of good moral character; *and*

(b) ~~[The applicant is]~~ *Be* at least 18 years ~~[old; and~~

~~(c)]~~ *of age.*

3. The funeral establishment for which the applicant is requesting the permit ~~[is]~~ *must be* constructed, equipped and maintained in the manner described in NRS 642.016.

~~[3.]~~ *4.* Each application must be accompanied by the application fee prescribed in NRS 642.0696.

Sec. 34. NRS 642.370 is hereby amended to read as follows:

642.370 Each applicant for a ~~[funeral director's license or a license to conduct direct cremations or immediate burials]~~ *license, permit or certificate issued by the Board pursuant to this chapter or chapter 451 or 452 of NRS* must furnish proof satisfactory to the Board that the applicant is of good moral character.

Sec. 35. NRS 642.390 is hereby amended to read as follows:

642.390 Upon receipt of an application for a *license,* permit ~~[to operate a funeral establishment, a funeral director's license or a license to conduct direct cremations or immediate burials,]~~ *or certificate issued by the Board pursuant to this chapter or chapter 451 or 452 of NRS,* the Board shall cause an investigation to be made as to the character of the applicant, and may require such showing as will reasonably prove the applicant's good moral character.

Sec. 36. NRS 642.400 is hereby amended to read as follows:

642.400 1. The Board may subpoena witnesses.

2. After a proper hearing, the Board shall issue to an applicant a ~~[funeral director's]~~ license ~~[or a license to conduct direct cremations or immediate burials]~~ *, permit or certificate, as applicable,* if it finds that the applicant:

(a) Is of good moral character;

(b) Fulfills the requirements set forth in this chapter *or chapter 451 or 452 of NRS, as applicable,* for the license ~~[;]~~ *, permit or certificate;* and

(c) Has paid all fees related to the application.

Sec. 37. NRS 642.420 is hereby amended to read as follows:

642.420 Each licensed funeral director and each person who is licensed ~~[to conduct direct cremations or immediate burials]~~ *as a ~~[death care consultant]~~ funeral arranger* shall pay the ~~[annual]~~ fee prescribed in NRS 642.0696 for the renewal of the license.

Sec. 38. NRS 642.430 is hereby amended to read as follows:

642.430 1. The Board shall mail, on or before January 1 of each *even-numbered* year, to each licensed funeral director and each person licensed ~~[to conduct direct cremations or immediate burials,]~~ *as a ~~[death care consultant,]~~ funeral arranger,* addressed to such licensee at his or her last known address, a notice that the renewal fee is due and that if the renewal fee is not paid by February 1 ~~[,]~~ *of that even-numbered year,* a fee for the late renewal of the license will be added to the renewal fee, and in no case will the fee for late renewal be waived.

2. Upon receipt of the renewal fee, all information required to complete the renewal and any fee for late renewal imposed pursuant to subsection 1, the Board shall issue a renewal certificate to the licensee.

Sec. 39. NRS 642.435 is hereby amended to read as follows:

642.435 1. Each person who is issued a permit to operate a funeral establishment *or direct cremation facility* must pay the ~~[annual]~~ fee prescribed in NRS 642.0696 for the renewal of the permit.

2. The Board shall, before renewing a permit to operate a funeral establishment ~~[,]~~ *or direct cremation facility,* make an unannounced inspection of the establishment for which the permit was issued to ensure compliance *, if applicable,* with:

(a) The laws governing the preparation, burial and disposal of dead human bodies, and the shipment of bodies of persons who have died from infectious or contagious diseases;

(b) Local health and sanitary ordinances and regulations relating to funeral directing and embalming; and

(c) Federal regulations governing funeral practices.

➥ Each person who is issued a permit to operate a funeral establishment *or direct cremation facility* shall be deemed to have consented to such an inspection as a condition for the issuance of the permit.

3. The Board shall, on or before January 1 of each *even-numbered* year, mail to each holder of a permit to operate a funeral establishment *or direct*

cremation facility a notice that the renewal fee for the permit is due and that if the renewal fee is not paid by February 1 ~~[,]~~ *of that even-numbered year,* a penalty will be added to the renewal fee, and in no case will the penalty be waived.

4. Upon receipt of the renewal fee and any penalties imposed by the Board pursuant to subsection 3, the Board shall issue a renewal certificate to the holder of the permit.

Sec. 40. NRS 642.450 is hereby amended to read as follows:

642.450 1. In case of the death of a licensed funeral director who leaves a funeral establishment *or direct cremation facility* as part or all of his or her estate, the Board may issue to the legal representative of the deceased funeral director, if the legal representative is of good moral character, a special temporary license as a funeral director for the duration of the administration of the estate, but in no case to exceed 1 year ~~[.]~~ *, notwithstanding the provisions of NRS 642.069.*

2. The fees for the application, issuance and renewal of a special temporary license and any other fees related to the special temporary license and the time for payment of such fees must be the same as those required for regular licenses.

Sec. 41. NRS 642.455 is hereby amended to read as follows:

642.455 1. Upon written request to the Board and payment of the fee prescribed in NRS 642.0696, a person who holds a funeral director's license or a license ~~[to conduct direct cremations or immediate burials]~~ *as a ~~[death care consultant]~~ funeral arranger* and who is a licensee in good standing may have the license placed on inactive status. A licensee whose license has been placed on inactive status shall not engage in the business of funeral directing or ~~[conducting direct cremations or immediate burials~~ *~~death care consulting]~~ funeral arranging* during the period in which the license is inactive.

2. If a licensee wishes to resume the business of funeral directing or ~~[conducting direct cremations or immediate burials,~~ *~~death care consulting,]~~ funeral arranging,* the Board shall reactivate the license upon the:

(a) Demonstration, if deemed necessary by the Board, that the licensee is qualified and competent to practice;

(b) Completion of an application; and

(c) Payment of the fee for the renewal of the license and any other fees related to the reactivation of the license.

3. A licensee is not required to pay the fee for the renewal of his or her license or any fees or penalties related to the renewal of the license for any ~~[year during the]~~ period in which the license was inactive.

Sec. 42. NRS 642.460 is hereby amended to read as follows:

642.460 Each funeral director's license and *each* license ~~[to conduct direct cremations or immediate burials]~~ *as a ~~[death care consultant]~~ funeral arranger* must specify the name of the licensee and be displayed conspicuously in the place of business or employment of the licensee.

Sec. 43. NRS 642.465 is hereby amended to read as follows:

642.465 1. Each permit to operate a funeral establishment *or direct cremation facility* must *be issued in the name under which the establishment or facility will conduct business,* specify the name of the owner of the establishment and be displayed conspicuously in the funeral establishment *or direct cremation facility* for which it was issued.

2. A funeral establishment *or direct cremation facility* must not be operated or advertised as being operated ~~[by any person other than the owner of the funeral establishment as his or her name]~~ *under any name other than the name under which the funeral establishment or direct cremation facility conducts business as it* appears on the permit . ~~[to operate that funeral establishment.]~~

3. Each funeral establishment and direct cremation facility which has been issued a permit by the Board pursuant to this chapter or chapter 451 or 452 of NRS shall maintain its facilities in a sanitary and professional manner.

4. Each funeral establishment and direct cremation facility which has been issued a permit by the Board pursuant to this chapter or chapter 451 or 452 of NRS must have a licensed funeral director to manage the establishment or facility in accordance with the provisions of NRS 642.345, and the name of the funeral director must be specified on the permit issued to the funeral establishment or direct cremation facility, as applicable.

5. Any advertising, including, without limitation, signage, for a direct cremation facility must specify that the facility is limited to providing direct cremation services.

6. Nothing in this chapter or chapter 451 or 452 of NRS shall be construed as prohibiting embalming from occurring at a central location.

Sec. 44. NRS 642.470 is hereby amended to read as follows:

642.470 The following acts are grounds for which the Board may take disciplinary action against ~~[a]~~ *any* person who holds a ~~[funeral director's]~~ license, ~~[a]~~ permit ~~[to operate a funeral establishment or a license to conduct direct cremations or immediate burials,]~~ *or certificate issued by the Board pursuant to this chapter or chapter 451 or 452 of NRS,* or may refuse to issue such a license , ~~[or]~~ permit *or certificate* to an applicant therefor:

1. Conviction of a crime involving moral turpitude.
2. Unprofessional conduct.
3. False or misleading advertising.
4. Conviction of a felony relating to the practice of funeral directors ~~[.]~~ *or ~~[death care consultants.]~~ funeral arrangers.*
5. Conviction of a misdemeanor that is related directly to the business of a funeral establishment ~~[.]~~ *, direct cremation facility, cemetery or crematory.*

Sec. 45. NRS 642.473 is hereby amended to read as follows:

642.473 1. If the Board determines that a person who holds a ~~[funeral director's]~~ license, ~~[a]~~ permit ~~[to operate a funeral establishment or a license to conduct direct cremations or immediate burials]~~ *or certificate issued by the*

Board pursuant to this chapter or chapter 451 or 452 of NRS has committed any of the acts set forth in NRS 642.470, the Board may:

(a) Refuse to renew the license *,* ~~[or]~~ permit ~~[.]~~ *or certificate;*

(b) Revoke the license *,* ~~[or]~~ permit ~~[.]~~ *or certificate;*

(c) Suspend the license *,* ~~[or]~~ permit *or certificate* for a definite period or until further order of the Board;

(d) Impose a fine of not more than $5,000 for each act that constitutes a ground for disciplinary action;

(e) Place the person on probation for a definite period subject to any reasonable conditions imposed by the Board;

(f) Administer a public reprimand; or

(g) Impose any combination of disciplinary actions set forth in paragraphs (a) to (f), inclusive.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 46. NRS 642.480 is hereby amended to read as follows:

642.480 For the purposes of NRS 642.470, unprofessional conduct includes:

1. Misrepresentation or fraud in the operation of a funeral establishment *, direct cremation facility, cemetery or crematory,* or the practice of a funeral director or ~~[person licensed to conduct direct cremations or immediate burials. *death care consultant.]*~~ *funeral arranger.*

2. Solicitation of dead human bodies by the licensee or his or her agents, assistants or employees, whether the solicitation occurs after death or while death is impending, but this does not prohibit general advertising.

3. Employment by a holder of a permit to operate a funeral establishment *or direct cremation facility* or *by a* licensee of persons commonly known as "cappers," "steerers" or "solicitors," or of other persons to obtain funeral directing or embalming business.

4. Employment, directly or indirectly, of any apprentice, agent, assistant, embalmer, ~~*[death care consultant,]*~~ *funeral arranger,* employee or other person, on part- or full-time or on commission, to call upon natural persons or institutions by whose influence dead human bodies may be turned over to a particular funeral director *,* ~~*[death care consultant]*~~ *funeral arranger* or embalmer.

5. The buying of business by a holder of a permit to operate a funeral establishment *or direct cremation facility* or *by* a licensee or his or her agents, assistants or employees, or the direct or indirect payment or offer of payment of a commission by the holder of a permit or a licensee or his or her agents, assistants or employees, to secure business.

6. Gross immorality.

7. Aiding or abetting an unlicensed person to practice funeral directing *,* ~~*[death care consulting]*~~ *funeral arranging* or embalming.

8. Using profane, indecent or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relatives of a deceased whose body has not yet been interred or otherwise disposed of.

9. Solicitation or acceptance by a holder of a permit to operate a funeral establishment *or direct cremation facility* or *by a* licensee of any commission, bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum *, direct cremation facility* or cemetery.

10. Except as otherwise provided in this subsection, using any casket or part of a casket which has previously been used as a receptacle for, or in connection with, the burial or other disposition of a dead human body. The provisions of this subsection do not prohibit the rental of the outer shell of a casket into which a removable insert containing a dead human body is placed for the purpose of viewing the body or for funeral services, or both, and which is later removed from the outer shell for cremation.

11. Violation of any provision of this chapter, any regulation adopted pursuant thereto or any order of the Board.

12. Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies, including, without limitation, ~~[NRS 451.400.]~~ *chapters 440, 451 and 452 of NRS.*

13. Fraud or misrepresentation in obtaining a permit or license.

14. Refusing to surrender promptly the custody of a dead human body, upon the express order of the person lawfully entitled to the custody thereof.

15. Taking undue advantage of the patrons of a funeral establishment *or direct cremation facility,* or being guilty of fraud or misrepresentation in the sale of merchandise to those patrons.

16. The theft or misappropriation of money in a trust fund established and maintained pursuant to chapter 689 of NRS.

17. Habitual drunkenness or the unlawful use of a controlled substance.

18. Unethical practices contrary to the public interest as determined by the Board.

Sec. 47. NRS 642.490 is hereby amended to read as follows:

642.490 For the purposes of NRS 642.470, false or misleading advertising includes:

1. Advertising the price of caskets exclusively, without stating the prices of other merchandise and services.

2. Offering service at cost plus a percentage, when the determination of the cost lies within the control of the owner of the funeral establishment *or direct cremation facility* or the funeral director *,* ~~*[death care consultant]*~~ *funeral arranger* or embalmer and is not published.

3. Advertising or selling certificates of stock participation or any form of agreement which creates the impression with the purchaser, when such is not a fact, that the purchaser becomes a part owner in the advertiser's

establishment *or facility* and is therefore entitled to special price privileges for funeral services.

4. Advertising prices below the reasonable economic cost of merchandise, service and overhead.

5. Advertising which impugns the honesty, trustworthiness or business or professional standards of competitors or which states that the prices charged by competitors are considerably higher than those charged by the advertiser, when such is not the fact.

6. Advertising which represents the advertiser to be the special defender of the public interest or which makes it appear that the advertiser is subjected to the combined attack of competitors. Such expressions as "independent," "not in trust," "not controlled by the combine" and other expressions having the same or similar import shall be deemed to be misleading unless it is shown by the advertiser that there is a "trust" or a "combine," and that other funeral establishments or funeral directors constitute a monopoly for the purpose of maintaining prices or for any other purpose. The burden of proving the existence of a "trust," "combine" or "monopoly" is upon the advertiser asserting the existence of that "trust," "combine" or "monopoly."

7. Advertising by a direct cremation facility which does not specifically indicate the limitations of the services provided.

8. Advertising under any name other than the name indicated on the permit to operate a funeral establishment or direct cremation facility.

Sec. 48. NRS 642.500 is hereby amended to read as follows:

642.500 1. A petition for the revocation or suspension of a *license,* permit ~~[to operate a funeral establishment, funeral director's license or license to conduct direct cremations or immediate burials]~~ *or certificate issued by the Board pursuant to this chapter or chapter 451 or 452 of NRS* may be filed by the Attorney General or by the district attorney of the county in which the funeral establishment *or direct cremation facility* exists or the licensee *or holder of the permit or certificate* resides or has practiced, or by any person residing in this State.

2. The petition must be filed with the Board and state the charges against the licensee *or holder of the permit or certificate* with reasonable definiteness.

Sec. 49. NRS 642.510 is hereby amended to read as follows:

642.510 1. Each order of revocation or suspension of a permit to operate a funeral establishment *or direct cremation facility* must be entered of record and the name of the holder of the permit stricken from the roster of permits and the funeral establishment *or direct cremation facility* may not be operated after revocation of the permit or during the period it is suspended.

2. Each order of revocation or suspension of a funeral director's license or ~~*[death care consultant's]*~~ *funeral arranger's* license ~~[to conduct direct cremations or immediate burials]~~ must be entered of record and the name of the licensee stricken from the roster of licenses and the licensee may not engage in the practice of funeral directing or ~~[conducting direct cremations or~~

~~immediate burials *death care consulting,]*~~ *funeral arranging, as applicable,* after revocation of the license or during the period it is suspended.

Sec. 50. NRS 642.521 is hereby amended to read as follows:

642.521 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license ~~[to practice the profession of embalming, a funeral director's license, a license to conduct direct cremations or immediate burials or a certificate of registration as an apprentice embalmer,]~~ *, permit or certificate issued by the Board pursuant to this chapter or chapter 451 or 452 of NRS,* the Board shall deem the license *, permit* or certificate ~~[of registration]~~ issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license *, permit* or certificate ~~[of registration]~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license *, permit* or certificate ~~[of registration]~~ has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license ~~[to practice the profession of embalming, a funeral director's license, a license to conduct direct cremations or immediate burials or a]~~ *, permit or* certificate ~~[of registration as an apprentice embalmer]~~ that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license *, permit* or certificate ~~[of registration]~~ was suspended stating that the person whose license *, permit* or certificate ~~[of registration]~~ was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 51. NRS 642.557 is hereby amended to read as follows:

642.557 Notwithstanding the provisions of chapter 622A of NRS:

1. If the Board has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter or chapter *440,* 451 or 452 of NRS, any regulation adopted by the Board pursuant thereto or any order of the Board, the Board may enter an order requiring the person to desist or refrain from engaging in the violation.

2. The provisions of NRS 241.034 do not apply to any action that is taken by the Board pursuant to this section.

Sec. 52. NRS 642.560 is hereby amended to read as follows:

642.560 No funeral director *,* ~~*[death care consultant]*~~ *funeral arranger* or embalmer may permit any person to enter any room in any funeral home or mortuary where dead bodies are being embalmed, except licensed embalmers and their assistants, funeral directors, ~~*[death care consultants,]*~~ *funeral arrangers,* public officers in the discharge of their official duties, and attending physicians and their assistants, unless by direct permission of the immediate family of the deceased.

Sec. 53. NRS 642.590 is hereby amended to read as follows:

642.590 1. Any funeral director who attempts to take care of the disposition of dead human bodies or any person who ~~[performs or attempts to perform direct cremations or immediate burials]~~ *acts as a* ~~*[death care consultant]*~~ *funeral arranger* without having complied with the provisions of this chapter, and without being licensed pursuant to this chapter, or who continues in the business of a funeral director or continues to ~~[conduct direct cremations or immediate burials]~~ *act as a* ~~*[death care consultant]*~~ *funeral arranger* after his or her license has been revoked shall be fined not more than $500. Each day that he or she is engaged in the business of a funeral director or ~~[conducts direct cremations or immediate burials~~ ~~*death care consultant]*~~ *funeral arranger* is a separate offense.

2. Any owner of a funeral establishment *or direct cremation facility* who operates or allows another person to operate the *funeral* establishment *or direct cremation facility* without having complied with the provisions of this chapter, or who continues to operate or allow another person to operate the *funeral* establishment *or direct cremation facility* after his or her permit to operate the *funeral* establishment *or direct cremation facility* has been revoked shall be fined not more than $500. Each day that he or she operates or allows another person to operate the *funeral* establishment *or direct cremation facility* is a separate offense.

3. Any owner of a funeral establishment *or direct cremation facility* or a funeral director ~~*[, death care consultant]*~~ *or funeral arranger,* or any person acting for him or her , who pays or causes to be paid, directly or indirectly, any money or other thing of value as a commission or gratuity for the securing of business as an owner of a funeral establishment *or direct cremation facility* or a funeral director ~~*[, death care consultant]*~~ *or funeral arranger* and every person who accepts or offers to accept any money or thing of value as a commission or gratuity from an owner of a funeral establishment *or direct cremation facility* or a funeral director *or* ~~*[death care consultant]*~~ *funeral arranger* to secure business for that person is guilty of a misdemeanor.

Sec. 54. NRS 451.024 is hereby amended to read as follows:

451.024 1. The following persons, in the following order of priority, may order the burial *or cremation* of human remains of a deceased person:

(a) A person designated as the person with authority to order the burial *or cremation* of the human remains of the decedent in a legally valid document or in an affidavit executed in accordance with subsection ~~[7,]~~ *9;*

(b) If the decedent was, at the time of death, on active duty as a member of the Armed Forces of the United States, a reserve component thereof or the National Guard, a person designated by the decedent in the United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, as the person authorized to direct disposition of the human remains of the decedent;

(c) The spouse of the decedent;

(d) An adult son or daughter of the decedent;

(e) Either parent of the decedent;

(f) An adult brother or sister of the decedent;

(g) A grandparent of the decedent;

(h) A guardian of the person of the decedent at the time of death; *and*

(i) ~~[A person who held the primary domicile of the decedent in joint tenancy with the decedent at the time of death; and~~

~~— (j)]~~ A person who meets the requirements of subsection 2.

2. ~~[If, 30 days or more after the death of a decedent, the coroner or sheriff, as applicable, has conducted an investigation to determine whether a person specified in paragraphs (a) to (i), inclusive, of subsection 1 exists and, upon completion of that investigation, is unable to identify or locate a person specified in those paragraphs, any]~~ *Any* other person may order the burial *or cremation* of the human remains of the decedent if the person:

(a) Is at least 18 years of age; and

(b) Executes an affidavit affirming:

(1) That he or she knew the decedent;

(2) The length of time that he or she knew the decedent;

(3) That he or she does not know the whereabouts of any of the persons specified in paragraphs (a) to ~~[(i),]~~ *(h),* inclusive, of subsection 1; and

(4) That he or she willingly accepts legal and financial responsibility for the burial *or cremation* of the human remains of the decedent.

3. *If a person with authority to order the burial or cremation of the human remains of a decedent pursuant to paragraphs (c) to (h), inclusive, of subsection 1 has been arrested for or charged with murder, as defined in NRS 200.010, or voluntary manslaughter, as defined in NRS 200.050, in connection with the death of the decedent, the authority of the person to order the disposition of the human remains of the decedent is automatically relinquished and passes to the next person in order of priority pursuant to subsection 1.*

4. If there is more than one person authorized to order the burial or cremation of the human remains of a decedent within a particular priority class pursuant to paragraphs (d) to (h), inclusive, of subsection 1, a funeral establishment or direct cremation facility may require a majority of the members of the priority class to agree upon a disposition of the remains of the decedent.

5. A person who accepts legal and financial responsibility for the burial *or cremation* of the human remains of a decedent as described in subparagraph (4) of paragraph (b) of subsection 2 does not have a claim against the estate of the decedent or against any other person for the cost of the burial ~~[.~~

~~— 4.]~~ *or cremation.*

6. If the deceased person was an indigent or other person for whom the final disposition of the decedent's remains is a responsibility of a county or

the State, the appropriate public officer may order the burial *or cremation* of the remains and provide for the respectful disposition of the remains.

~~[5.]~~ *7.* If the deceased person donated his or her body for scientific research or, before the person's death, a medical facility was made responsible for the final disposition of the person, a representative of the scientific institution or medical facility may order the burial *or cremation* of his or her remains.

~~[6.]~~ *8.* A living person may order the burial *or cremation* of human remains removed from his or her body or the burial *or cremation* of his or her body after death. In the latter case, any person acting pursuant to his or her instructions is an authorized agent.

~~[7.]~~ *9.* A person 18 years of age or older wishing to authorize another person to order the burial *or cremation* of his or her human remains in the event of the person's death may execute an affidavit before a notary public in substantially the following form:

State of Nevada }
}ss
County of }

(Date) .....

I, ...(person authorizing another person to order the burial *or cremation* of his or her human remains in the event of his or her death) do hereby designate ..... (person who is being authorized to order the burial *or cremation* of the human remains of a person in the event of his or her death) to order the ~~[burial]~~ *disposition* of my human remains upon my death.

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

.....
(Notary Public)

10. If the authorized person is not reasonably available or is unable to act as the authorized person, the right of the person to be the authorized person shall pass to the next person or category of persons in the order of priority pursuant to subsection 1.

11. It shall be presumed that an authorized person is not reasonably available to act as an authorized person in accordance with subsection 10 if the crematory, cemetery, funeral establishment or direct cremation facility, after exercising due diligence, has been unable to contact the person, or if the person has been unwilling or unable to make final arrangements for the burial or cremation of the human remains of the decedent, within 30 days after the initial contact or attempt to contact by the crematory, cemetery, funeral establishment or direct cremation facility.

12. If a person with a lower authorization priority than another person pursuant to subsection 1 has been authorized to order the burial or cremation of the human remains of a decedent and, subsequently, a person with a higher authorization priority makes an initial contact with the

crematory, cemetery, funeral establishment or direct cremation facility and is available to perform the duties of an authorized person pursuant to this section before the final disposition of the decedent, the person with the higher authorization priority is the authorized person to order the burial or cremation of the human remains of the decedent.

Sec. 55. NRS 451.635 is hereby amended to read as follows:

451.635 1. No person may cremate human remains except in a crematory whose operator is licensed by the Nevada Funeral and Cemetery Services Board.

2. *The licensed operator of a crematory shall ensure that all persons physically operating the crematory equipment have completed a crematory certification program approved by the Board and maintain proof of completion of the program at the site where the crematory equipment operated by the person is located. Such proof of completion must be made available to the Board upon request or as part of any inspection or investigation conducted by the Board.*

3. If a crematory is proposed to be located in an incorporated city whose population is 60,000 or more or in an unincorporated town that is contiguous to such an incorporated city, the Board shall not issue a license to the applicant unless the proposed location of all structures associated with the crematory are:

(a) In an area which is zoned for mixed, commercial or industrial use; and

(b) At least 1,500 feet from the boundary line of any parcel zoned for residential use.

~~[3.]~~ *4.* The Board shall prescribe and furnish forms for application for licensing. An application must be in writing and contain:

(a) The name and address of the applicant and the location or proposed location of the crematory;

(b) A description of the structure and equipment to be used in operating the crematory; and

(c) Any further information that the Board may reasonably require.

~~[4.]~~ *5.* An application must be signed by the applicant personally, by one of the partners if the applicant is a partnership, or by an authorized officer if the applicant is a corporation or other form of business organization.

~~[5.]~~ *6.* The Board shall examine the structure and equipment and, if applicable, the location and shall issue the license if:

(a) It appears that the proposed operation will meet the requirements of NRS 451.600 to 451.715, inclusive; and

(b) The applicant has paid all fees related to the application.

~~[6.]~~ *7.* If the ownership of a crematory is to be changed, the proposed operator shall apply for licensing at least 30 days before the change.

Sec. 56. NRS 451.645 is hereby amended to read as follows:

451.645 1. A cemetery or funeral home may erect and conduct a crematory if licensed as the operator.

2. Except as otherwise provided in subsection ~~[2]~~ *3* of NRS 451.635, a crematory may be erected on or adjacent to the premises of a cemetery or funeral establishment if the location is zoned for commercial or industrial use, or at any other location where the local zoning permits. A crematory must conform to all local building codes and environmental standards.

~~[3. The operator of a crematory may contract with or employ a licensed funeral director to:~~

~~(a) Deal with the public in arranging for cremations;~~

~~(b) Transport human remains to the crematory; or~~

~~(c) Distribute, fill out or obtain the return of necessary papers.~~

~~➥ This subsection does not require the performance of any act by a licensed funeral director unless other law requires that such an act be performed only by him or her.]~~

Sec. 57. NRS 451.660 is hereby amended to read as follows:

451.660 1. The operator of a crematory shall not cremate human remains until a death certificate has been signed and, except as otherwise provided in NRS 451.655, without first receiving a written authorization, on a form provided by the operator, signed by the agent or by the living person from whom the remains have been removed:

(a) Identifying the deceased person or the remains removed;

(b) Stating whether or not death occurred from a communicable or otherwise dangerous disease;

(c) Stating the name and address of the agent and the agent's relation to the deceased person;

(d) Representing that the agent is aware of no objection to cremation of the remains by any person who has a right to control the disposition of the deceased person's remains; and

(e) Stating the name of the person authorized to claim the cremated remains or the name of the cemetery or person to whom the remains are to be sent.

2. An authorized agent may delegate his or her authority to another person by a written and signed statement containing the agent's name, address and relationship to the deceased person and the name and address of the person to whom the agent's authority is delegated. The operator of a crematory incurs no liability by relying upon a signed order for cremation received by mail or upon a delegation of authority.

3. If the authorized agent is not reasonably available or is unable to act as the authorized agent, the person's right to be the authorized agent shall pass to the next person or category of persons in the order of priority pursuant to subsection 1 of NRS 451.024.

4. It shall be presumed that an authorized person is not reasonably available to act as an authorized agent in accordance with subsection 3 if the crematory, cemetery, funeral establishment or direct crematory facility, after exercising due diligence, has been unable to contact the person, or if the person has been unwilling or unable to make final arrangements for the

disposition of the deceased person's remains, within 30 days after the initial contact or attempted contact by the crematory, cemetery, funeral establishment or direct cremation facility.

5. If a person with a lower authorization priority than another person pursuant to subsection 1 of NRS 451.024 has been designated as the authorized agent to order the disposition of the deceased person's remains and, subsequently, a person with a higher authorization priority makes an initial contact with the crematory, cemetery, funeral establishment or direct crematory facility and is available to perform the duties of an authorized agent pursuant to NRS 451.024 before the final disposition of the remains, the person with the higher authorization priority shall be deemed to be the authorized agent to order the disposition of the remains.

Sec. 58. NRS 451.665 is hereby amended to read as follows:

451.665 1. The operator of a crematory *, funeral establishment or direct cremation facility* shall keep a record of:

(a) Each authorization received;

(b) The name of each person whose human remains are received;

(c) The date and time of receipt, and a description of the container in which received;

(d) The date of cremation; and

(e) The final disposition of the cremated remains.

2. The operator of a crematory shall not accept unidentified human remains. If the remains are received in a container, the operator shall place appropriate identification upon the exterior of the container.

3. If a permit for transportation of human remains to the crematory is required by the local health authority, the operator shall file the permit in his or her records.

Sec. 59. NRS 451.695 is hereby amended to read as follows:

451.695 1. Except as otherwise provided in subsection 2:

(a) The agent who orders cremation is responsible for the disposition of cremated remains. If within 30 days after cremation the person named in the authorization has not claimed the cremated remains and no other disposition is specified in the authorization, the operator of a crematory may place the vessel containing the cremated remains in a common compartment with other unclaimed cremated remains. The operator may charge a fee for storage when the cremated remains are claimed.

(b) If within 2 years after cremation the agent has not claimed the cremated remains or specified their ultimate disposition, the operator may dispose of the cremated remains in any manner not prohibited by NRS 451.700. The agent is liable to the operator for all reasonable expenses of disposition.

2. If cremation was ordered pursuant to subsection ~~[2]~~ *6* of NRS ~~[451.650:]~~ *451.024:*

(a) The operator may dispose of the cremated remains in any manner not prohibited by NRS 451.700, if the cremated remains are not claimed by the agent within 1 year after cremation.

(b) The operator has a claim against the estate of the decedent for the reasonable expenses of the disposition if those expenses are not paid by the State or a political subdivision of the State.

(c) The operator shall not charge a public officer a fee for storage of the cremated remains.

3. An operator who complies with subsection 1 or 2, or both, has no further legal liability concerning the cremated remains so treated.

Sec. 60. NRS 451.715 is hereby amended to read as follows:

451.715 1. It is unlawful for any person to:

(a) Hold himself or herself out to the public as the operator of a crematory without being licensed pursuant to NRS 451.635;

(b) Sign an order for cremation knowing that the order contains incorrect information; or

(c) Violate any other provision of NRS 451.600 to 451.715, inclusive, any regulation adopted pursuant thereto or any order of the Nevada Funeral and Cemetery Services Board.

2. It is unlawful for the operator of a crematory to perform a cremation without an order signed by a person authorized to order the cremation pursuant to NRS ~~[451.650]~~ *451.024* or 451.655.

3. If a crematory is operated in this state in violation of any provision of NRS 451.600 to 451.715, inclusive, any regulation adopted pursuant thereto or any order of the Nevada Funeral and Cemetery Services Board, the crematory is a public nuisance and may be abated as such.

Sec. 60.5. NRS 452.340 is hereby amended to read as follows:

452.340 1. If the Board finds that the proposed cemetery authority has in good faith complied with all lawful requirements, it shall within 30 days issue a certificate of authority for the operation of a cemetery.

2. ~~[The]~~ *Notwithstanding the provisions of NRS 642.069, the* certificate of authority is valid for 6 months from the date of issuance, and if the cemetery authority has not begun operations within that time the certificate expires unless the Board has, for good cause, extended the period. No such extension may be given for more than 6 months from the date of extension.

Sec. 61. NRS 689.150 is hereby amended to read as follows:

689.150 As used in NRS 689.150 to 689.375, inclusive, unless the context otherwise requires:

1. "Funeral service or services" means those services performed normally by funeral directors , ~~*[death care consultants]*~~ *funeral arrangers* or funeral or mortuary parlors and includes their sales of supplies and equipment for burial. The term includes cremations and crematory services. The term does not include services performed by a cemetery or the sale by a cemetery of services, interests in land, markers, memorials, monuments or merchandise and equipment in relation to the cemetery or the sale of crypts or niches

constructed or to be constructed in a mausoleum or columbarium or otherwise on the property of a cemetery.

2. "Performer" means any person designated in a prepaid contract to furnish the funeral services, supplies and equipment covered by the contract on the demise of the beneficiary.

3. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or promises either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract to furnish funeral services and merchandise. The term does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, of embalming, interring or otherwise disposing of the remains of any person.

Sec. 62. NRS 689.715 is hereby amended to read as follows:

689.715 1. A funeral director *,* ~~*[death care consultant]*~~ *funeral arranger* or cemetery authority that enters into a preneed sales agreement shall, upon the death of the buyer, provide a copy of the agreement to each person entitled to custody of the remains.

2. The Commissioner may impose upon any person who knowingly violates the provisions of subsection 1 an administrative fine of three times the amount of the preneed sales agreement.

Sec. 63. NRS 451.650, 642.140 and 642.355 are hereby repealed.

Sec. 64. 1. This act becomes effective:

~~[1.]~~ (a) Upon passage and approval for purposes of adopting regulations and performing any preparatory administrative tasks that are necessary to carry out the provisions of this act; and

~~[2.]~~ (b) On January 1, 2016, for all other purposes.

2. Section 50 of this act expires by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

➥ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTIONS

451.650 Authority to order cremation; execution of affidavit.

1. The following persons, in the following order of priority, may order the cremation of human remains of a deceased person:

(a) A person designated as the person with authority to order the cremation of the human remains of the decedent in a legally valid document or in an affidavit executed in accordance with subsection 5;

(b) If the decedent was, at the time of death, on active duty as a member of the Armed Forces of the United States, a reserve component thereof or the National Guard, a person designated by the decedent in the United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, as the person authorized to direct disposition of the human remains of the decedent;

(c) The spouse of the decedent;

(d) An adult son or daughter of the decedent;

(e) Either parent of the decedent;

(f) An adult brother or sister of the decedent;

(g) A grandparent of the decedent;

(h) A guardian of the person of the decedent at the time of death; and

(i) A person who held the primary domicile of the decedent in joint tenancy with the decedent at the time of death.

2. If the deceased person was an indigent or other person for the final disposition of whose remains a county or the State is responsible, the appropriate public officer may order cremation of the remains and provide for the respectful disposition of the cremated remains.

3. If the deceased person donated his or her body for scientific research or, before the person's death, a medical facility was made responsible for the final disposition of the person, a representative of the scientific institution or medical facility may order cremation of the remains of the person.

4. A living person may order the cremation of human remains removed from his or her body or the cremation of the body of the person after the person's death. In the latter case, any person acting pursuant to his or her instructions is an authorized agent.

5. A person 18 years of age or older wishing to give authority to another person to order the cremation of his or her human remains upon the person's death may execute an affidavit before a notary public in substantially the following form:

State of Nevada }
}ss
County of }

(Date) .....

I, ..., (person authorizing another person to order the cremation of his or her human remains upon his or her death) do hereby designate ..... (person who is being authorized to order the cremation of the human remains of another person in the event of his or her death) to order the cremation of my human remains upon my death.

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

.....

(Notary Public)

642.140 Duties of Secretary when license revoked. Upon the revocation of a license to practice the profession of embalming, the Secretary of the Board shall strike the name of the licensee from the register of licensed embalmers and notify all railroad, transportation and express companies doing business in the State of Nevada, and all licensed embalmers in this State, of that action.

642.355 Direct cremations and immediate burials: Application for license; authorized services.

1. A person may apply for a license to conduct direct cremations or immediate burials.

2. The services which a person holding such a license may provide are limited to the direct cremation, immediate burial, disposition and transportation of dead human bodies.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 594 makes six changes to Senate Bill No. 286. First, it replaces the term "death care consultant" with the term "funeral arranger" throughout the bill. Second, it makes all licenses and permits issued by the Nevada Funeral and Cemetery Services Board valid for a period of two years. Third, it requires a funeral director or an embalmer to complete 12 hours of continuing education before renewal of his or her license; makes a technical change to delete "1 year of service as a certified funeral director intern in this State," and replace with "1 year actively practicing as a funeral arranger in this State." Fourth, it requires an individual or business that offers cremation services in Nevada for sale via the Internet to have a brick-and-mortar funeral establishment, crematory or direct cremation facility located in the State, which is licensed or permitted pursuant to chapters 642 and/or 451 of *Nevada Revised Statutes*. Lastly, it replaces the accreditation by "the International Conference of Funeral Service Examining Boards," with "American Board of Funeral Service Education."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 305.

Bill read second time.

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

Amendment No. 342.

SUMMARY—Authorizes industrial ~~[cannabis]~~ hemp farming in this State under certain circumstances. (BDR 49-656)

AN ACT relating to agriculture; authorizing the growth or cultivation ~~[, storage and sale]~~ of industrial ~~[cannabis]~~ hemp in this State under certain circumstances; ~~[creating the Industrial Cannabis Advisory Board; creating a list of approved seed cultivars for industrial cannabis; providing for the registration and regulation of growers of industrial cannabis and seed breeders; establishing requirements for the cultivation and testing of industrial cannabis; requiring certain reports be made to the Legislature regarding industrial cannabis;]~~ excluding industrial ~~[cannabis]~~ hemp

authorized to be grown or cultivated in this State from the definition of marijuana for the purposes of certain crimes; ~~[providing a penalty;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits selling, manufacturing, delivering, bringing into the State or possessing any part of any plant of the genus *Cannabis*, whether growing or not. (NRS 453.339) On February 7, 2014, the President of the United States signed the Agricultural Act of 2014 into law. Section 7606 of the Act authorizes institutions of higher education and state departments of agriculture to cultivate industrial hemp for research purposes under an agricultural pilot program or for other agricultural or academic research. (7 U.S.C. § 5940)

~~[Section 27 of this bill prohibits the cultivation of industrial cannabis except by an established agricultural research institution or a person who is registered as a grower of industrial cannabis or as a seed breeder. Section 23 of this bill authorizes: (1) the cultivation, storage, purchase and sale of industrial cannabis by a registered grower of industrial cannabis, registered seed breeder or established agricultural research institution; and (2) the purchase and storage of industrial cannabis and the manufacturing and sale of products made from industrial cannabis by a registered producer of industrial cannabis products.~~

~~Section 16 of this bill establishes provisions relating to the registration of growers of industrial cannabis. Section 17 of this bill establishes provisions relating to the registration of seed breeders. Section 18 of this bill establishes provisions relating to the registration of producers of industrial cannabis products. Section 24 of this bill authorizes the State Board of Agriculture to establish fees for the issuance and renewal of such registrations. Section 15 of this bill limits the varieties of industrial cannabis that may be cultivated to those appearing on a list of approved seed cultivars maintained by the Director of the State Department of Agriculture or those cultivated by an established agricultural research institution or a seed breeder in the process of developing a new seed cultivar. Section 25 of this bill establishes requirements for the cultivation of industrial cannabis. Section 26 of this bill establishes requirements for the testing of the concentration of THC in industrial cannabis. Section 19 of this bill: (1) authorizes a person to hold an ownership interest in an entity registered pursuant to this bill and a medical marijuana establishment; and (2) prohibits an entity from being both registered pursuant to this bill and as a medical marijuana establishment.~~

~~Section 13 of this bill establishes the Industrial Cannabis Advisory Board and requires the Advisory Board to advise the Director on all matters relating to industrial cannabis. Section 31 of this bill requires the Advisory Board, on or before January 1, 2021, to report to the Legislature on the economic impact of industrial cannabis on this State and any other states that have authorized its cultivation.]~~ Section 13.5 of this bill authorizes an institution of higher education or the State Department of Agriculture to grow or cultivate

industrial hemp for purposes of research conducted under an agricultural pilot program or for other agricultural or academic research. Section 13.5 also requires each site used to grow or cultivate industrial hemp to be certified by and registered with the Department. Section 14 of this bill authorizes the State Board of Agriculture to adopt regulations to carry out these provisions.

Sections 28 and 29 of this bill exclude industrial ~~[cannabis,]~~ hemp, as defined in section 7 of this bill, which is grown or cultivated for such research purposes from certain crimes relating to marijuana.

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

Section 1. Title 49 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, 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 12, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. ~~*["Advisory Board" means the Industrial Cannabis Advisory Board created by section 13 of this act.]*~~ (Deleted by amendment.)

Sec. 3.5. "Agricultural pilot program" means a program to study the growth, cultivation or marketing of industrial hemp.

Sec. 4. *"Department" means the State Department of Agriculture.*

Sec. 5. ~~*["Director" means the Director of the Department.]*~~ (Deleted by amendment.)

Sec. 6. ~~*["Established agricultural research institution" means a public or private institution or organization that maintains land for agricultural research, including, without limitation, colleges, universities, agricultural research centers and conservation research centers.]*~~ (Deleted by amendment.)

Sec. 7. ~~*[1.]*~~ *"Industrial* ~~*[cannabis"]*~~ *hemp" means* ~~*[a crop that is limited to nonpsychoactive types of]*~~ *the plant Cannabis sativa L. and* ~~*[the seed produced therefrom that:*~~

~~*(a) Except as otherwise provided in subsection 7 of section 26 of this act, has not more than 0.3 percent THC contained in the dried flowering tops; and*~~

~~*(b) Is cultivated and processed exclusively for the purpose of producing the mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature plant, including, without limitation, the resin or flowering tops extracted therefrom, fiber, oil or cake, or the sterilized seed or any component of the seed of the plant which is incapable of germination.*~~

~~*2. The term includes, without limitation, related products imported pursuant to the Harmonized Tariff Schedule of the United States published by the United States International Trade Commission, including, without*~~

~~limitation, hemp seed, hemp oil, hemp powder, oil cake, true hemp, true hemp yarn and woven fabrics of true hemp fibers.]~~ any part of such plant, whether growing or not, with a THC concentration of not more than 0.3 percent on a dry weight basis.

Sec. 8. ~~[*"Seed breeder" means a person or state or local governmental entity that is registered with the Department pursuant to section 17 of this act to develop seed cultivars intended for sale or research.]~~ (Deleted by amendment.)

Sec. 8.5. "Institution of higher education" means:

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; and

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 9. ~~[*"Seed certifying agency" has the meaning ascribed to "certifying agency" in NRS 587.023.]~~ (Deleted by amendment.)

Sec. 10. ~~[*"Seed cultivar" means a variety of industrial cannabis.]~~ (Deleted by amendment.)

Sec. 11. ~~[*"Seed development plan" means a strategy devised by a seed breeder or an applicant for registration as a seed breeder that describes his or her planned approach to growing and developing a new seed cultivar for industrial cannabis.]~~ (Deleted by amendment.)

Sec. 12. *"THC" has the meaning ascribed to it in NRS 453A.155.*

Sec. 13. ~~[*1. The Industrial Cannabis Advisory Board, consisting of 11 members, is hereby created. The Advisory Board consists of:*~~

~~*(a) Three members who are growers of industrial cannabis registered pursuant to the provisions of section 16 of this act or, if the Department has not yet implemented registration pursuant to section 16 of this act, who intend to become registered and who represent at least one of the following functions:*~~

~~*(1) Marketing;*~~

~~*(2) Seed conditioning;*~~

~~*(3) Seed production; or*~~

~~*(4) Seed utilization.*~~

~~*(b) Two members who are members of or affiliated with an established agricultural research institution.*~~

~~*(c) One member who is a representative of the Nevada Sheriffs' and Chiefs' Association.*~~

~~*(d) One member who is a representative of the Department.*~~

~~*(e) One member who is a member of an association which represents the interests of persons actively engaged in the business of industrial cannabis production.*~~

~~*(f) One member who represents the interests of persons actively engaged in the business of processing or manufacturing products made from industrial cannabis.*~~

~~*(g) One member who represents the interests of persons actively engaged in the business of selling products made from industrial cannabis.*~~

~~*(h) One member who is a representative of the general public.*~~

~~*2. The State Board of Agriculture shall appoint the members of the Advisory Board pursuant to subsection 1 and may fill all vacancies which arise on the Advisory Board by appointing a member to serve the unexpired term.*~~

~~*3. After the initial terms, the members of the Advisory Board serve terms of 3 years.*~~

~~*4. The members of the Advisory Board serve without compensation, except that necessary travel and per diem expenses may be reimbursed, not to exceed the amounts provided for state officers and employees generally, to the extent that money is made available for that purpose.*~~

~~*5. The Advisory Board shall:*~~

~~*(a) Elect a Chair and such other officers from its members as it deems advisable.*~~

~~*(b) Meet at least once each year and at the call of the Chair or the request of any four members of the Advisory Board.*~~

~~*(c) Advise the Director and make recommendations on all matters relating to industrial cannabis, including, without limitation, regulation of industrial cannabis and industrial cannabis seeds, the enforcement of this chapter, the annual budget required to implement the provisions of this chapter and the fees assessed on growers of industrial cannabis and seed breeders.]*~~ (Deleted by amendment.)

Sec. 13.5. *1. An institution of higher education or the Department may grow or cultivate industrial hemp if the industrial hemp is grown or cultivated for:*

(a) Purposes of research conducted under an agricultural pilot program; or

(b) Other agricultural or academic research.

2. Each site used for growing or cultivating industrial hemp in this State must be certified by and registered with the Department before growing or cultivating industrial hemp.

Sec. 14. *The State Board of Agriculture may adopt regulations to carry out the provisions of this chapter* ~~*[.]*~~ *, including, without limitation, regulations necessary to:*

1. Establish and carry out an agricultural pilot program; and

2. Provide for the certification and registration of sites used for growing or cultivating industrial hemp.

Sec. 15. ~~*[1. In addition to any other requirement of this chapter, industrial cannabis must not be grown in this State unless the seed cultivar:*~~

~~*(a) Is grown by an established agricultural research institution;*~~

~~*(b) Is grown by a seed breeder in the process of developing a new seed cultivar; or*~~

~~(c) Appears on the list of approved seed cultivars described in subsection 2.~~

~~2. Except as otherwise provided in subsection 3, the list of seed cultivars approved for growth in this State includes seed cultivars of industrial cannabis that have been certified:~~

~~(a) On or before January 1, 2016, by member agencies of the Association of Official Seed Certifying Agencies, including, without limitation, the Canadian Seed Growers' Association.~~

~~(b) On or before January 1, 2016, by the Organisation for Economic Co-operation and Development.~~

~~(c) On or before January 1, 2016, by the European Seed Certification Agencies Association or its member agencies.~~

~~(d) By the Department pursuant to NRS 587.015 to 587.123, inclusive.~~

~~3. The Director may, by regulation, add, amend or remove seed cultivars from the list described in subsection 2 upon the recommendation of the Advisory Board or the Department.~~

~~4. The Department shall consult with the Advisory Board to determine the manner in which to give the public notice of the list of seed cultivars approved for growth in this State and any revisions to the list.]~~ (Deleted by amendment.)

Sec. 16. ~~[1. A person who wishes to grow industrial cannabis for commercial purposes in this State must submit to the Department:~~

~~(a) An application on a form prescribed by the Department which must include:~~

~~(1) The name, physical address and mailing address of the applicant;~~

~~(2) The legal description, global positioning system coordinates and a map of each land area on which the applicant wishes to engage in the cultivation or storage of industrial cannabis; and~~

~~(3) The seed cultivar to be grown, proof that the seed cultivar appears on the list of approved seed cultivars pursuant to section 15 of this act and the purpose for which the seed cultivar will be grown; and~~

~~(b) The fee established pursuant to section 24 of this act.~~

~~2. The Department shall issue a registration as a grower of industrial cannabis to an applicant who satisfies the requirements of this chapter.~~

~~3. A registration as a grower of industrial cannabis is valid for 2 years and may be renewed upon the submission to the Department of the fee established pursuant to section 24 of this act and an application for renewal on a form prescribed by the Department.~~

~~4. A registered grower of industrial cannabis who wishes to change the land area on which the grower cultivates or stores industrial cannabis must submit to the Department an updated legal description, global positioning system coordinates and map specifying the changes before changing the land area. The Department shall review the information submitted by a grower pursuant to this subsection and, upon approval of the change, notify the grower within 30 days after submission of the information required by this~~

~~*subsection that he or she may cultivate or store industrial cannabis on the revised land area.*~~

~~*5. A registered grower of industrial cannabis who wishes to change the seed cultivar that the grower cultivates must submit to the Department the name of the new seed cultivar and proof that the seed cultivar appears on the list of approved seed cultivars pursuant to section 15 of this act before cultivating the new seed cultivar. The Department shall review the information submitted by a grower pursuant to this subsection and, upon approval of the change, notify the grower within 30 days after submission of the information required by this subsection that he or she may cultivate the new seed cultivar.]*~~ (Deleted by amendment.)

Sec. 17. ~~*[1. A person who wishes to become a seed breeder in this State must submit to the Department:*~~

~~*(a) An application on a form prescribed by the Department which must include:*~~

~~*(1) The name, physical address and mailing address of the applicant;*~~

~~*(2) The legal description, global positioning system coordinates and a map of each land area on which the applicant wishes to engage in the cultivation or storage of industrial cannabis;*~~

~~*(3) The seed cultivar to be grown, proof that the seed cultivar appears on the list of approved seed cultivars pursuant to section 15 of this act and the purpose for which the seed cultivar will be grown; and*~~

~~*(4) If the applicant intends to develop a new seed cultivar in this State to be certified by a seed certifying agency:*~~

~~*(I) The name of the seed certifying agency that will be conducting the certification;*~~

~~*(II) The varieties of industrial cannabis that will be used to develop the new seed cultivar; and*~~

~~*(III) A seed development plan specifying how the listed varieties of industrial cannabis will be used in the development of the new seed cultivar, measures that will be taken pursuant to this chapter to prevent the unlawful use of industrial cannabis or seed cultivars and a procedure for the maintenance of records documenting the development of the new seed cultivar; and*~~

~~*(b) The fee established pursuant to section 24 of this act.*~~

~~*2. The Department shall issue a registration as a seed breeder to an applicant who satisfies the requirements of this chapter.*~~

~~*3. A registration as a seed breeder is valid for 2 years and may be renewed upon the submission to the Department of the fee established pursuant to section 24 of this act and an application on a form prescribed by the Department.*~~

~~*4. A registered seed breeder who wishes to change the land area on which the seed breeder cultivates or stores industrial cannabis must submit to the Department an updated legal description, global positioning system coordinates and map specifying the changes before changing the land area.*~~

~~*The Department shall review the information submitted by a seed breeder pursuant to this subsection and, upon approval of the change, notify the seed breeder within 30 days after submission of the information required by this subsection that he or she may cultivate or store industrial cannabis on the revised land area.*~~

~~*5. A registered seed breeder who wishes to change the seed cultivar that the seed breeder cultivates must submit to the Department the name of the new seed cultivar and proof that the seed cultivar appears on the list of approved seed cultivars pursuant to section 15 of this act before cultivating the new seed cultivar. The Department shall review the information submitted by a seed breeder pursuant to this subsection and, upon approval of the change, notify the seed breeder within 30 days after submission of the information required by this subsection that he or she may cultivate the new seed cultivar.*~~

~~*6. A registered seed breeder developing a new seed cultivar in this State to be certified by a seed certifying agency who wishes to change any provision of the seed development plan must submit to the Department the revised seed development plan. The Department shall review the information submitted by a seed breeder pursuant to this subsection and, upon approval of the change, notify the seed breeder within 30 days after submission of the information required by this subsection that he or she may develop the new seed cultivar pursuant to the revised seed development plan.*~~

~~*7. A seed breeder shall maintain all records pertaining to a seed development plan and make the records available upon request to the Department, a law enforcement agency or a representative of a seed certifying agency.]*~~ (Deleted by amendment.)

Sec. 18. ~~*[1. A person who wishes to produce and sell products derived from industrial cannabis in this State must submit to the Department:*~~

~~*(a) An application on a form prescribed by the Department which must include:*~~

~~*(1) The name, physical address and mailing address of the applicant;*~~

~~*(2) The legal description, global positioning system coordinates and a map of each land area on which the applicant wishes to engage in the production, storage or sale of products derived from industrial cannabis; and*~~

~~*(3) A description of each product derived from industrial cannabis that the applicant intends to produce or sell; and*~~

~~*(b) The fee established pursuant to section 21 of this act.*~~

~~*2. The Department shall issue a registration as a producer of industrial cannabis products to an applicant who satisfies the requirements of this chapter.*~~

~~*3. A registration as a producer of industrial cannabis products is valid for 2 years and may be renewed upon the submission to the Department of the fee established pursuant to section 21 of this act and an application for renewal on a form prescribed by the Department.*~~

~~4. A registered producer of industrial cannabis products who wishes to change the land area on which the producer produces, stores or sells products derived from industrial cannabis must submit to the Department an updated legal description, global positioning system coordinates and map specifying the changes before changing the land area. The Department shall review the information submitted by a producer pursuant to this subsection and, upon approval of the change, notify the producer within 30 days after submission of the information required by this subsection that he or she may produce, store or sell products derived from industrial cannabis on the revised land area.]~~ (Deleted by amendment.)

Sec. 19. ~~[1. A person may apply to the Department for registration as more than one of the types of businesses described in sections 16, 17 and 18 of this act.~~

~~2. A person may hold an ownership interest in an entity registered pursuant to this chapter and an entity which holds a medical marijuana establishment registration certificate issued pursuant to NRS 453A.322. An entity registered pursuant to this chapter may not hold a medical marijuana establishment registration certificate issued pursuant to NRS 453A.322 and must be operated separately from such an entity.]~~ (Deleted by amendment.)

Sec. 20. ~~[1. In addition to any other requirements set forth in this chapter, an applicant for the renewal of a registration must indicate in the application submitted to the Department 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 registration may not be renewed by the Department if:~~

~~(a) The applicant fails to submit the information required by subsection 1; or~~

~~(b) The State Controller has informed the Department pursuant to subsection 5 of NRS 353C.1965 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. 21. ~~[1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a registration as a grower of industrial cannabis, a producer of industrial cannabis products or a seed breeder shall:~~

~~(a) Include the social security number of the applicant in the application submitted to the Department.~~

~~(b) Submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.~~

~~2. The Department shall include the statement required pursuant to subsection 1 in:~~

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

~~(b) A separate form prescribed by the Department.~~

~~3. A registration may not be issued or renewed by the Department if the applicant:~~

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

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

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

Sec. 22. ~~[1. If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is registered as a grower of industrial cannabis, a producer of industrial cannabis products or a seed breeder, the Department shall deem the registration issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.~~

~~2. The Department shall reinstate a registration as a grower of industrial cannabis, a producer of industrial cannabis products or a seed breeder that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose registration was suspended stating that the person whose registration was suspended has~~

~~complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.]~~ (Deleted by amendment.)

Sec. 23. ~~[1. A registered grower of industrial cannabis, registered seed breeder or established agricultural research institution may engage in the cultivation, storage, purchase or sale of industrial cannabis.~~

~~2. A registered producer of industrial cannabis products may engage in the purchase and storage of industrial cannabis and the manufacturing and sale of products made from industrial cannabis.]~~ (Deleted by amendment.)

Sec. 24. ~~[1. The State Board of Agriculture shall by regulation establish reasonable fees for registration as a grower of industrial cannabis, registration as a producer of industrial cannabis products or registration as a seed breeder and for the renewal of a registration as a grower of industrial cannabis, a producer of industrial cannabis products or a seed breeder. The fees must be set in such an amount as to reimburse the Department for the cost of carrying out the provisions of this chapter.~~

~~2. The Department shall collect the fees required by this section and transmit the proceeds to the State Treasurer for credit to the Industrial Cannabis Account created by section 30 of this act.]~~ (Deleted by amendment.)

Sec. 25. ~~[1. Industrial cannabis which is cultivated by a registered grower of industrial cannabis must be densely planted in an acreage of not less than 5 acres at a time and any plots within the acreage must be not less than 1 contiguous acre.~~

~~2. Industrial cannabis which is cultivated by a registered seed breeder for the purpose of seed production must be densely planted in an acreage of not less than 2 acres at a time and any plots within the acreage must be not less than 1 contiguous acre.~~

~~3. Industrial cannabis which is cultivated by a registered seed breeder for the purpose of developing a new seed cultivar must be densely planted in a dedicated acreage of not less than 1 acre in accordance with the provisions of the seed breeder's seed development plan. The entire area of the dedicate acreage is not required to be used for the cultivation of the new seed cultivar.~~

~~4. Each plot must contain adequate signage to indicate that industrial cannabis is being grown within the plot.~~

~~5. Industrial cannabis must not be culled except:~~

~~(a) When grown by an established agricultural research institution;~~

~~(b) As necessary to perform the testing required by section 26 of this act; or~~

~~(c) For the purposes of seed production and development by a registered seed breeder.]~~ (Deleted by amendment.)

Sec. 26. ~~[1. A registered grower of industrial cannabis or a registered seed breeder must obtain a laboratory test report from an independent testing laboratory certified pursuant to chapter 453A of NRS indicating that the concentration of THC in a random sampling of the dried flowering tops~~

~~*of the industrial cannabis being cultivated is 0.3 percent or less before harvesting the industrial cannabis.*~~

~~*2. The registered grower of industrial cannabis or registered seed breeder shall take samples from random industrial cannabis plants when the concentration of THC in the leaves surrounding the seeds of the plants is at its highest level. This subsection is deemed to be satisfied if the samples are taken when the first seeds produced by approximately 50 percent of the industrial cannabis plants being cultivated have become resistant to compression.*~~

~~*3. The samples submitted to the independent testing laboratory must consist of the entire fruit bearing part of the industrial cannabis plant obtained by cutting directly underneath the inflorescence found in the top one-third of the plant.*~~

~~*4. In addition to the sample collected pursuant to this section, the registered grower of industrial cannabis or registered seed breeder must submit to the independent testing laboratory:*~~

~~*(a) Proof of registration pursuant to this chapter;*~~

~~*(b) Documentation concerning the certification of each seed cultivar used; and*~~

~~*(c) Previous reports of THC testing for each certified seed cultivar used.*~~

~~*5. The laboratory test report issued by an independent testing laboratory pursuant to this section must contain:*~~

~~*(a) The concentration of THC contained in the sample;*~~

~~*(b) The date the sample was taken;*~~

~~*(c) The location from which the sample was taken;*~~

~~*(d) The global positioning system coordinates and total acreage of the crop from which the sample was taken;*~~

~~*(e) If the concentration of THC in the sample was 0.3 percent or less, the words "PASSED AS NEVADA INDUSTRIAL CANNABIS" at or near the top of the laboratory test report; and*~~

~~*(f) If the concentration of THC in the sample was more than 0.3 percent, the words "FAILED AS NEVADA INDUSTRIAL CANNABIS" at or near the top of the laboratory test report.*~~

~~*6. If the laboratory test report indicates a concentration of THC that:*~~

~~*(a) Is 0.3 percent or less, the independent testing laboratory shall provide the registered grower of industrial cannabis or registered seed breeder with 10 or more original copies of the laboratory test report signed by an employee of the independent testing laboratory and shall retain 1 or more original copies of the laboratory test report for at least 2 years after the date the sample was taken.*~~

~~*(b) Is more than 0.3 percent but not more than 1 percent, the independent testing laboratory shall notify the registered grower of industrial cannabis or registered seed breeder and the grower of industrial cannabis or seed breeder shall provide additional samples of the industrial cannabis being cultivated for further testing.*~~

~~(c) Is more than 1 percent or, for further testing done pursuant to paragraph (b), is more than 0.3 percent, the registered grower of industrial cannabis or registered seed breeder shall destroy the crop from which the sample was taken. The crop must be destroyed as soon as practicable but not later than 45 days after receiving the laboratory testing report.~~

~~7. A crop with a concentration of THC that is:~~

~~(a) More than 0.3 percent but not more than 1 percent which is grown by a registered grower of industrial cannabis or registered seed breeder who intends to cultivate industrial cannabis and complies with the provisions of this section; or~~

~~(b) More than 0.3 percent which is grown by an established agricultural research institution to contribute to the development of a type of industrial cannabis with a concentration of THC that is 0.3 percent or less,~~

~~→ shall be deemed to be industrial cannabis.~~

~~8. A registered grower of industrial cannabis or registered seed breeder shall retain an original signed copy of a laboratory test report received pursuant to this section for at least 2 years after the date on which the sample was taken and make the original signed copy available to the Department and law enforcement officials at their request. The registered grower of industrial cannabis or registered seed breeder shall provide an original copy of a laboratory test report received pursuant to this section to each person who purchases, transports or otherwise obtains any component of the plant from the registered grower of industrial cannabis or registered seed breeder.~~

~~9. As used in this section, "independent testing laboratory" has the meaning ascribed to it in NRS 453A.107.]~~ (Deleted by amendment.)

Sec. 27. ~~[A person shall not engage in the cultivation of industrial cannabis in this State unless the person is:~~

~~1. Registered as a grower of industrial cannabis or as a seed breeder pursuant to this chapter; or~~

~~2. An established agricultural research institution engaging in the cultivation of industrial cannabis pursuant to the provisions of section 23 of this act.]~~ (Deleted by amendment.)

Sec. 28. NRS 453.096 is hereby amended to read as follows:

453.096 1. "Marijuana" means:

(a) All parts of any plant of the genus Cannabis, whether growing or not;

(b) The seeds thereof;

(c) The resin extracted from any part of the plant; and

(d) Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

2. "Marijuana" does not include ~~[the]~~ *:*

(a) Industrial ~~[cannabis,]~~ hemp, as defined in section 7 of this act ~~[;]~~ , which is grown or cultivated pursuant to the provisions of sections 2 to 14, inclusive, of this act; or

(b) The mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

Sec. 29. NRS 453.339 is hereby amended to read as follows:

453.339 1. Except as otherwise provided in NRS 453.011 to 453.552, inclusive, a person who knowingly or intentionally sells, manufactures, delivers or brings into this State or who is knowingly or intentionally in actual or constructive possession of marijuana shall be punished, if the quantity involved:

(a) Is 100 pounds or more, but less than 2,000 pounds, for a category C felony as provided in NRS 193.130 and by a fine of not more than $25,000.

(b) Is 2,000 pounds or more, but less than 10,000 pounds, for a category B felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years and by a fine of not more than $50,000.

(c) Is 10,000 pounds or more, for a category A felony by imprisonment in the state prison:

(1) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served; or

(2) For a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served,

➥ and by a fine of not more than $200,000.

2. For the purposes of this section:

(a) "Marijuana" means all parts of any plant of the genus Cannabis, whether growing or not ~~[.]~~ *, except for industrial ~~[cannabis,]~~ hemp, as defined in section 7 of this act ~~[.]~~ , which is grown or cultivated pursuant to the provisions of sections 2 to 14, inclusive, of this act.*

(b) The weight of marijuana is its weight when seized or as soon as practicable thereafter.

Sec. 30. ~~[Chapter 561 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The Industrial Cannabis Account is hereby created in the State General Fund. The proceeds of the fees assessed pursuant to section 24 of this act must be credited to the Account.*~~

~~*2. Expenditures from the Account may be made only for the purpose of carrying out the provisions of sections 2 to 27, inclusive, of this act.]~~ (Deleted by amendment.)

Sec. 31. ~~[On or before January 1, 2021, the Industrial Cannabis Advisory Board created by section 13 of this act shall solicit input from an association which represents the interests of persons actively engaged in the business of industrial cannabis production and submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature which describes:~~

~~1. The economic impact of the cultivation and processing of and the manufacturing of products based on industrial cannabis on this State; and~~

~~2. The economic impact of the cultivation and processing of and the manufacturing of products based on industrial cannabis in other states that have authorized the cultivation of industrial cannabis.~~] (Deleted by amendment.)

Sec. 32. ~~[As soon as practicable after the effective date of this act, the State Board of Agriculture shall appoint to the Industrial Cannabis Advisory Board created by section 13 of this act:~~

~~1. Six members to terms that expire on December 31, 2017.~~

~~2. Five members to terms that expire on December 31, 2018.~~] (Deleted by amendment.)

Sec. 33. ~~[1.]~~ This act becomes effective:

~~[(a)]~~ 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

~~[(b)]~~ 2. On January 1, 2016, for all other purposes.

~~[2. Sections 21 and 22 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

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

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

~~are repealed by the Congress of the United States.~~]

Senator Gustavson moved the adoption of the amendment.

Remarks by Senator Gustavson.

Amendment No. 342 to Senate Bill No. 305 deletes several sections of bill and replaces reference to "industrial cannabis" with "industrial hemp" throughout. It authorizes an institution of higher education or the State Department of Agriculture to grow or cultivate industrial hemp under an agricultural pilot program or for other agricultural or academic research. It requires each site used to grow industrial hemp must be certified and registered with the Department. Finally, it authorizes the State Board of Agriculture to adopt regulations to carry out provisions.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 321.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 438.

SUMMARY—Revises provisions concerning real property. (BDR 9-728)

AN ACT relating to real property; authorizing a mortgagor or a grantor or person who holds title of record with respect to a deed of trust to initiate a mediation with the mortgagee or beneficiary of the deed of trust under certain

circumstances; providing for the imposition of a fee for mediation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth procedures governing foreclosures on real property upon default. A trustee under a deed of trust has the power to sell the property to which the deed of trust applies, subject to certain restrictions. One such restriction on the trustee's power of sale upon default with respect to owner-occupied housing is that a trustee must initiate mediation with a grantor of a deed of trust or the person who holds the title of record under which he or she may receive a loan modification. (NRS 107.086)

This bill authorizes a mortgagor under a mortgage secured by owner-occupied housing or a grantor or the person who holds the title of record with respect to a deed of trust concerning owner-occupied housing to initiate the mediation process if: (1) a local housing counseling agency approved by the United States Department of Housing and Urban Development certifies that the mortgagor, grantor or person who holds the title of record has a documented financial hardship and is in imminent risk of default; (2) the mortgagor, grantor or other person files a form with the Mediation Administrator indicating an election to enter into mediation; and (3) the mortgagor, grantor or other person pays his or her share of the fee for the mediation. Under this bill, if the parties participate in mediation in good faith, the requirement of existing law to participate in mediation before a nonjudicial foreclosure sale of the owner-occupied housing is satisfied.

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A mortgagor under a mortgage secured by owner-occupied housing or a grantor or the person who holds the title of record with respect to any trust agreement which concerns owner-occupied housing may initiate mediation to negotiate a loan modification under the mediation process set forth in NRS 107.086 if:

(a) A local housing counseling agency approved by the United States Department of Housing and Urban Development certifies that the mortgagor, grantor or person who holds the title of record:

(1) Has a documented financial hardship; and

(2) Is in imminent risk of default; and

(b) The mortgagor, grantor or person who holds the title of record:

(1) Submits a form prescribed by the Mediation Administrator indicating an election to enter into mediation pursuant to this section; and

(2) Pays to the Mediation Administrator his or her share of the fee established pursuant to subsection 11 of NRS 107.086.

2. Upon satisfaction of the requirements of subsection 1, the Mediation Administrator shall notify the mortgage servicer, by certified mail, return receipt requested, of the enrollment of the mortgagor, grantor or person who

holds the title of record 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. The mortgage servicer shall notify the mortgagee or the beneficiary of the deed of trust, as applicable, and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the enrollment of the mortgagor, grantor or person who holds the title of record to participate in mediation.

3. Each mediation required by this section must be conducted in conformity with the requirements of subsections 5 and 6 of NRS 107.086.

4. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall, not later than 30 days after submittal of the mediator's recommendation that the matter be terminated, provide to the mortgage servicer a certificate which provides that the mediation required by this section has been completed in the matter. If the Mediation Administrator provides such a certificate, the requirement for mediation pursuant to NRS 107.086 is satisfied.

5. The certificate provided pursuant to subsection 4 must be in the same form as the certificate provided pursuant to subsection 8 of NRS 107.086, and may be recorded in the office of the county recorder in which the trust property is located, or some part thereof, is situated. The recording of the certificate in the office of the county recorder in which the trust property, or some part thereof, is situated shall be deemed to be the recording of the certificate required pursuant to subparagraph (2) of paragraph (d) of subsection 2 of NRS 107.086.

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

~~[6.]~~ *7. 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.*

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

(a) "Financial hardship" means a documented event that would prevent the long-term payment of any debt relating to a mortgage or deed of trust secured by owner-occupied housing, including, without limitation:

(1) The death of the borrower or co-borrower;

(2) Serious illness;

(3) Divorce or separation; or

(4) Job loss or a reduction in pay.

(b) "Imminent risk of default" means the inability of a grantor or the person who holds the title of record to make his or her mortgage payment within the next 90 days.

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

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

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

Sec. 1.5. NRS 107.086 is hereby amended to read as follows:

107.086 1. Except as otherwise provided in this subsection [,] *and subsection 4 of section 1 of this act,* in addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section. The provisions of this section do not apply to the exercise of the power of sale if the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes an affidavit and a certification indicating that, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

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

(3) A notice provided by the Mediation Administrator indicating that the grantor or the person who holds the title of record will be enrolled to 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; and

(4) A form upon which the grantor or the person who holds the title of record may indicate an election to waive mediation pursuant to this section and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) In addition to including the information described in paragraph (a) with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080, provides to the grantor or the person who holds the title of record the information described in paragraph (a) concurrently with, but separately from, the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080;

(c) Serves a copy of the notice upon the Mediation Administrator; and

(d) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 4 or 7 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 8 which provides that mediation has been completed in the matter.

3. If the grantor or the person who holds the title of record elects to waive mediation, he or she shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and return the form to the trustee and the Mediation Administrator by certified mail, return receipt requested. If the grantor or the person who holds the title of record does not elect to waive mediation, he or she shall, not later than 30 days after the service of the notice in the manner required by NRS 107.080, pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 11. Upon receipt of the share of the fee established pursuant to subsection 11 owed by the grantor or the person who holds title of record, the Mediation Administrator shall notify the trustee, by certified mail, return receipt requested, of the enrollment of the grantor or person who holds the title of record 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. The trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the enrollment of the grantor or the person who holds the title of record to participate in mediation. If the grantor or person who holds the title of record is enrolled to participate in mediation pursuant to this section, no further action may be taken to exercise the power of sale until the completion of the mediation.

4. If the grantor or the person who holds the title of record indicates on the form described in subparagraph (4) of paragraph (a) of subsection 2 an election to waive mediation or fails to pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 11, as required by subsection 3, the Mediation Administrator shall, not later than 60 days after the Mediation Administrator receives the form indicating an election to waive mediation or 90 days after the service of the notice in the manner required by NRS 107.080, whichever is earlier, provide to the trustee a certificate which provides that no mediation is required in the matter.

5. 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. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or his or her representative, or the person who holds the title of record or his or her representative, shall attend the mediation. The beneficiary of the deed of trust

shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

6. If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 5 or does not have the authority or access to a person with the authority required by subsection 5, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

7. If the grantor or the person who holds the title of record is enrolled to participate in mediation pursuant to this section but fails to attend the mediation, the Mediation Administrator shall, not later than 30 days after the scheduled mediation, provide to the trustee a certificate which states that no mediation is required in the matter.

8. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall, not later than 30 days after submittal of the mediator's recommendation that the matter be terminated, provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

9. Upon receipt of the certificate provided to the trustee by the Mediation Administrator pursuant to subsection 4, 7 or 8, if the property is located within a common-interest community, the trustee shall notify the unit-owners' association organized under NRS 116.3101 of the existence of the certificate.

10. During the pendency of any mediation pursuant to this section, a unit's owner must continue to pay any obligation, other than any past due obligation.

11. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than $400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

12. Except as otherwise provided in subsection 14, the provisions of this section do not apply if:

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

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

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

14. 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.

15. As used in this section:

(a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.

(b) "Mediation Administrator" means the entity so designated pursuant to subsection 11.

(c) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

(d) "Obligation" has the meaning ascribed to it in NRS 116.310313.

(e) "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

(f) "Unit's owner" has the meaning ascribed to it in NRS 116.095.

Sec. 2. 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. 321 provides that good-faith mediation engaged in by a lender and a homeowner under the provisions of this bill satisfy pertinent mediation requirements under Nevada law.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 394.

Bill read second time.

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

Amendment No. 612.

SUMMARY—Revises provisions relating to the protection of children. (BDR 38-264)

AN ACT relating to children; ~~[revising provisions relating to foster care;]~~ revising provisions relating to guardians ad litem for a child in certain circumstances; requiring the instruction of pupils in personal safety; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, a child placed in a foster home by an agency which provides child welfare services has the right to participate in extracurricular, cultural and personal enrichment activities which are consistent with the age and developmental level of the child. (NRS 432.525, 432.535) Pursuant to the federal law, Pub. L. No. 113-183, a state plan for foster care and adoption assistance must, after September 29, 2015, provide that prospective foster parents have knowledge and skills relating to the reasonable and prudent parent standard for determining whether a foster child may participate in age and developmentally appropriate extracurricular, enrichment, cultural and social activities. (42 U.S.C. § 671) Section 2 of this bill provides that the reasonable and prudent parent standard is characterized by the use of careful and sensible parental decisions that maintain the health, safety and best interests of a child while at the same time encouraging the emotional and developmental growth of the child. Section 3 of this bill requires training in the reasonable and prudent parent standard for all providers of foster care, employees of a foster care agency, and any employee of the Division of Child and Family Services of the Department of Health and Human Services or any agency which provides child welfare services who is responsible for the placement of children in foster care or the inspection or investigation of foster homes. Section 5 of this bill provides that a foster home may not receive a child for foster care until the training required pursuant to section 3 has been completed, and section 18 of this bill allows any such existing provider 2 years to complete the training.~~

~~Section 6 of this bill requires the licensing authority to discuss with an applicant for licensure as a foster home and, to the extent possible, ensure that the applicant understands that the provider of foster care is a partner with the licensing authority in the supervision and care of a child placed in that foster home, and that the provider of foster care will, whenever practicable, be consulted and included in making decisions relating to the child. (NRS 424.036) Section 9 of this bill provides immunity from liability for a~~

~~provider of foster care in the event of any injury to a child in the provider's care that results from the child's participation in an extracurricular, enrichment, cultural or social activity so long as the provider of foster care acted in accordance with the reasonable and prudent parent standard. (NRS 424.085)]~~

Existing law authorizes certain courts to appoint an attorney to serve as a guardian ad litem to represent a child in certain matters concerning child welfare, and further provides that an attorney may not receive any compensation for services as a guardian ad litem. (NRS 432B.420) Existing law also requires certain courts to appoint a guardian ad litem, who must be a volunteer and who has had certain training, to represent a child in a proceeding to determine if a child is in need of protection, and provides that no compensation may be allowed a person serving as such a guardian ad litem. (NRS 432B.500, 432B.505) Sections 11 and 12 of this bill remove the prohibition on a guardian ad litem receiving compensation, and section 13 of this bill removes the requirement that a guardian ad litem be a volunteer.

Sections 15 and 16 of this bill require pupils in public schools to be provided with age-appropriate instruction in personal safety. Section 15 requires the Department of Education, in consultation with persons and organizations who possess knowledge and expertise in the personal safety of children, to develop age-appropriate curriculum standards for teaching personal safety to children. The Department must also develop recommendations to assist ~~[the board of trustees of]~~ a school district or ~~[the governing body of]~~ a charter school to develop and implement various programs related to the personal safety of children. Section 16 requires the board of trustees of each school district and the governing body of each charter school to ~~[direct]~~ ensure that instruction on the personal safety of children be carried out as part of a course of study in health and based on the standards developed by the Department. The ~~[board of trustees]~~ school district or ~~[governing body]~~ charter school is required to determine the appropriate grade levels, course content and materials for such instruction, and the instruction must be provided by: (1) a licensed teacher; (2) an employee of the school district with special knowledge or training in the teaching of personal safety to children; (3) an employee of an agency which has as its primary purpose the teaching of personal safety to children; ~~[or]~~ (4) an employee of a law enforcement agency ~~[.]~~ ; or (5) a volunteer of an agency which has as its primary purpose the teaching of personal safety to children who has undergone a background investigation and has special training in the teaching of personal safety. Section 16 also provides that the parent or guardian of each pupil to whom such instruction will be provided must be notified of such instruction and provided with an opportunity to review the instructional materials to be used and to submit a written request that the pupil be excused from the instruction, unless the course in which the instruction is provided is required for graduation.

Finally, section 19 of this bill gives the Department until July 1, 2016, to develop the age-appropriate curriculum standards, and gives the board of trustees of each school district and the governing board of each charter school until July 1, 2020, to begin providing instruction in the personal safety of children.

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

Section 1. ~~[Chapter 424 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.]~~ (Deleted by amendment.)

Sec. 2. ~~[*"Reasonable and prudent parent standard" means a standard, characterized by careful and sensible parental decisions that maintain the health, safety and best interests of the child while at the same time encouraging the emotional and developmental growth of the child, used by a provider of foster care when determining whether to allow a child in the care of the provider of foster care to participate in extracurricular, enrichment, cultural and social activities which are consistent with the age and developmental level of the child. The term does not include determinations that would violate a court order regarding the child, including, without limitation, an order relating to visitation, counseling or therapy, unless the provider of foster care has obtained prior approval from the court that issued the order or the licensing authority.*]~~ (Deleted by amendment.)

Sec. 3. ~~[*1. The Division shall, in consultation with each licensing authority in a county whose population is 100,000 or more:*~~

~~*(a) Adopt regulations that require training regarding the reasonable and prudent parent standard for each:*~~

~~*(1) Provider of foster care;*~~

~~*(2) Employee of a foster care agency; and*~~

~~*(3) Employee of the Division or a licensing agency who is responsible for the placement of children in foster care or the inspection and investigation of foster homes.*~~

~~*(b) Provide or contract with a third party for the provision of the training required pursuant to paragraph (a). Such training must include, without limitation:*~~

~~*(1) Strategies to assist a provider of foster care in applying the reasonable and prudent parent standard in a manner that protects child safety, while also allowing children to experience normal and beneficial activities, including, without limitation, sports, field trips and overnight activities lasting 1 or more days;*~~

~~*(2) Methods for appropriately considering the concerns of the biological parent or parents of a child in decisions related to participation of the child in activities, with the understanding that those concerns should not necessarily determine the participation of the child in the activities; and*~~

~~*(3) Examples of the types of extracurricular, enrichment, cultural and social activities that are appropriate for children at various levels of age or maturity.*~~

~~*(c) Adopt such policies, procedures or regulations as determined necessary to support, encourage and reinforce the use of the reasonable and prudent parent standard by providers of foster care in this State to give children in foster care regular, ongoing opportunities to participate in developmentally and age appropriate extracurricular, enrichment, cultural and social activities.*~~

~~*2. The Division may apply for and accept grants, gifts, donations, bequests or devises from any public or private source to carry out the provisions of this section.]*~~ (Deleted by amendment.)

Sec. 4. ~~[NRS 424.010 is hereby amended to read as follows:~~

~~424.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 424.012 to 424.018, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.]~~ (Deleted by amendment.)

Sec. 5. ~~[NRS 424.030 is hereby amended to read as follows:~~

~~424.030 1. No person may conduct a family foster home, a specialized foster home, an independent living foster home or a group foster home without receiving a license to do so from the licensing authority.~~

~~2. No license may be issued to a family foster home, a specialized foster home, an independent living foster home or a group foster home until a fair and impartial investigation of the home and its standards of care has been made by the licensing authority or its designee.~~

~~3. Any family foster home, specialized foster home, independent living foster home or group foster home that conforms to the established standards of care and prescribed rules must receive a regular license from the licensing authority, which may be in force for 2 years after the date of issuance. On reconsideration of the standards maintained, the license may be renewed upon expiration.~~

~~4. If a family foster home, a specialized foster home, an independent living foster home or a group foster home does not meet minimum licensing standards but offers values and advantages to a particular child or children and will not jeopardize the health and safety of the child or children placed therein, the family foster home, specialized foster home, independent living foster home or group foster home may be issued a special license, which must be in force for 1 year after the date of issuance and may be renewed annually. No foster children other than those specified on the license may be cared for in the home.~~

~~5. A family foster home, a specialized foster home, an independent living foster home or a group foster home may not accept the placement of a child by a juvenile court unless licensed by the licensing authority to accept children placed by a juvenile court or otherwise approved to accept the placement by the licensing authority. A foster home that accepts the~~

~~placement of such a child shall work cooperatively with the juvenile court, the licensing authority, any other children placed in the foster home and the legal guardian or other person or agency with legal authority over the child to ensure the safety of all children placed in the foster home. Nothing in this subsection shall be construed to allow the placement of a child that would otherwise be prohibited by subsection 7 of NRS 432B.390.~~

~~6. A license must not be issued to a specialized foster home or a group foster home unless the specialized foster home or group foster home maintains a policy of general liability insurance in an amount determined to be sufficient by the licensing authority.~~

~~7. The license must show:~~

~~(a) The name of the persons licensed to conduct the family foster home, specialized foster home, independent living foster home or group foster home.~~

~~(b) The exact location of the family foster home, specialized foster home, independent living foster home or group foster home.~~

~~(c) The number of children that may be received and cared for at one time.~~

~~(d) If the license is a special license issued pursuant to subsection 4, the name of the child or children for whom the family foster home, specialized foster home, independent living foster home or group foster home is licensed to provide care.~~

~~(e) Whether the family foster home, specialized foster home, independent living foster home or group foster home is approved to receive and care for children placed by a juvenile court.~~

~~*8. A family foster home, specialized foster home, independent living foster home or group foster home may not receive a child for care until the training required pursuant to section 3 of this act has been completed.*~~

~~*9.* No family foster home, specialized foster home, independent living foster home or group foster home may receive for care more children than are specified in the license.~~

~~[9.]~~ *10.* ~~In consultation with each licensing authority in a county whose population is 100,000 or more, the Division may adopt regulations regarding the issuance of special licenses.~~] (Deleted by amendment.)

Sec. 6. ~~[NRS 424.036 is hereby amended to read as follows:~~

~~424.036 Before issuing a license to conduct a foster home pursuant to NRS 424.030, the licensing authority shall discuss with the applicant and, to the extent possible, ensure that the applicant understands:~~

~~1. The role of a provider of foster care, the licensing authority and the members of the immediate family of a child placed in a foster home;~~ [and]

~~2. The personal skills which are required of a provider of foster care and the other residents of a foster home to provide effective foster care~~ [.]~~;~~ *and*

~~*3. That the provider of foster care is a partner with the licensing authority in the supervision and care of a child placed in the care of the provider, and that the provider will, whenever practicable, be consulted and*~~

~~*included in the making of decisions relating to the child.]*~~ (Deleted by amendment.)

Sec. 7. ~~[NRS 424.0365 is hereby amended to read as follows:~~

~~424.0365 1. A licensee that operates a family foster home, a specialized foster home, an independent living foster home or a group foster home shall ensure that each employee who comes into direct contact with children in the home receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

~~(a) Controlling the behavior of children;~~

~~(b) Policies and procedures concerning the use of force and restraint on children;~~

~~(c) The rights of children in the home;~~

~~(d) Suicide awareness and prevention;~~

~~(e) The administration of medication to children;~~

~~(f) Applicable state and federal constitutional and statutory rights of children in the home;~~

~~(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home;~~ [and]

~~(h) *The use of the reasonable and prudent parent standard; and*~~

~~*(i)* Such other matters as required by the licensing authority or pursuant to regulations of the Division.~~

~~2. The Division shall adopt regulations necessary to carry out the provisions of this section.]~~ (Deleted by amendment.)

Sec. 8. ~~[NRS 424.038 is hereby amended to read as follows:~~

~~424.038 1. Before placing, and during the placement of, a child in a foster home, the licensing authority shall provide to the provider of foster care such information relating to the child as is necessary to~~ [ensure]~~.~~

~~*(a) Ensure* the health and safety of the child and the other residents of the foster home~~ [.]~~; *and*~~

~~*(b) Make decisions about the child using the reasonable and prudent parent standard.*~~

~~→ This information must include the medical history and previous behavior of the child to the extent that such information is available.~~

~~2. The provider of foster care may, at any time before, during or after the placement of the child in the foster home, request information about the child from the licensing authority. After the child has left the care of the provider, the licensing authority shall provide the information requested by the provider, unless the information is otherwise declared to be confidential by law or the licensing authority determines that providing the information is not in the best interests of the child.~~

~~3. The provider of foster care shall maintain the confidentiality of information obtained pursuant to this section under the terms and conditions otherwise required by law.~~

~~4. The Division shall adopt regulations specifying the procedure and format for the provision of information pursuant to this section, which may include the provision of a summary of certain information. If a summary is provided pursuant to this section, the provider of foster care may also obtain the information set forth in subsections 1 and 2.~~] (Deleted by amendment.)

Sec. 9. ~~[NRS 424.085 is hereby amended to read as follows:~~

~~424.085 1. Except as otherwise provided by specific statute, a person who is licensed by the licensing authority pursuant to NRS 424.030 to conduct a family foster home, a specialized foster home, an independent living foster home or a group foster home is not liable for any~~ [act] ~~:~~

~~*(a) Act* of a child in his or her foster care unless the person licensed by the licensing authority took an affirmative action that contributed to the act of the child.~~

~~*(b) Injury to a child in his or her foster care as a result of the child's participation in an extracurricular, enrichment, cultural or social activity, provided that the person acted in accordance with the reasonable and prudent parent standard.~~

~~2. The immunity from liability provided pursuant to this section includes, without limitation, immunity from any fine, penalty, debt or other liability incurred as a result of the act of the child.~~] (Deleted by amendment.)

Sec. 10. ~~[NRS 424.090 is hereby amended to read as follows:~~

~~424.090 The provisions of NRS 424.020 to 424.090, inclusive,~~ *~~and section 3 of this act~~* ~~do not apply to homes in which:~~

~~1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.~~

~~2. Care is provided by the legal guardian.~~

~~3. Care is provided for an exchange student.~~

~~4. Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.~~

~~5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.~~

~~6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is related to the caregiver by blood, adoption or marriage.~~

~~7. Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS or a juvenile court pursuant to title 5 of NRS if:~~

~~(a) The caregiver is related to the child within the fifth degree of consanguinity; and~~

~~(b) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive~~ [.] ~~,~~ *~~and section 3 of this act.~~]* (Deleted by amendment.)

Sec. 11. NRS 432B.420 is hereby amended to read as follows:

432B.420 1. A parent or other person responsible for the welfare of a child who is alleged to have abused or neglected the child may be represented by an attorney at all stages of any proceedings under NRS 432B.410 to 432B.590, inclusive. Except as otherwise provided in subsection 2, if the person is indigent, the court may appoint an attorney to represent the person. The court may, if it finds it appropriate, appoint an attorney to represent the child. The child may be represented by an attorney at all stages of any proceedings held pursuant to NRS 432B.410 to 432B.590, inclusive. If the child is represented by an attorney, the attorney has the same authority and rights as an attorney representing a party to the proceedings.

2. If the court determines that the parent of an Indian child for whom protective custody is sought is indigent, the court:

(a) Shall appoint an attorney to represent the parent;

(b) May appoint an attorney to represent the Indian child; and

(c) May apply to the Secretary of the Interior for the payment of the fees and expenses of such an attorney,

➥ as provided in the Indian Child Welfare Act.

3. Each attorney, other than a public defender, if appointed under the provisions of subsection 1, is entitled to the same compensation and payment for expenses from the county as provided in NRS 7.125 and 7.135 for an attorney appointed to represent a person charged with a crime. Except as otherwise provided in NRS 432B.500, an attorney appointed to represent a child may also be appointed as guardian ad litem for the child. ~~[An attorney may not receive any compensation for services as a guardian ad litem.]~~

Sec. 12. NRS 432B.500 is hereby amended to read as follows:

432B.500 1. After a petition is filed that a child is in need of protection pursuant to NRS 432B.490, the court shall appoint a guardian ad litem for the child. The person so appointed:

(a) Must meet the requirements of NRS 432B.505 or, if such a person is not available, a representative of an agency which provides child welfare services, a juvenile probation officer, an officer of the court or another volunteer.

(b) Must not be a parent or other person responsible for the child's welfare.

2. ~~[No compensation may be allowed a person serving as a guardian ad litem pursuant to this section.~~

~~3.]~~ A guardian ad litem appointed pursuant to this section shall:

(a) Represent and protect the best interests of the child until excused by the court;

(b) Thoroughly research and ascertain the relevant facts of each case for which the guardian ad litem is appointed, and ensure that the court receives an independent, objective account of those facts;

(c) Meet with the child wherever the child is placed as often as is necessary to determine that the child is safe and to ascertain the best interests of the child;

(d) Explain to the child the role of the guardian ad litem and, when appropriate, the nature and purpose of each proceeding in the case;

(e) Participate in the development and negotiation of any plans for and orders regarding the child, and monitor the implementation of those plans and orders to determine whether services are being provided in an appropriate and timely manner;

(f) Appear at all proceedings regarding the child;

(g) Inform the court of the desires of the child, but exercise independent judgment regarding the best interests of the child;

(h) Present recommendations to the court and provide reasons in support of those recommendations;

(i) Request the court to enter orders that are clear, specific and, when appropriate, include periods for compliance;

(j) Review the progress of each case for which the guardian ad litem is appointed, and advocate for the expedient completion of the case; and

(k) Perform such other duties as the court orders.

Sec. 13. NRS 432B.505 is hereby amended to read as follows:

432B.505 1. To qualify for appointment as a guardian ad litem pursuant to NRS 432B.500 in a judicial district that includes a county whose population is less than 100,000, a special advocate must ~~[be a volunteer from the community who completes]~~ *complete* an initial 12 hours of specialized training and, annually thereafter, ~~[completes]~~ *complete* 6 hours of specialized training. The training must be approved by the court and include information regarding:

(a) The dynamics of the abuse and neglect of children;

(b) Factors to consider in determining the best interests of a child, including planning for the permanent placement of the child;

(c) The interrelationships between the family system, legal process and system of child welfare;

(d) Skills in mediation and negotiation;

(e) Federal, state and local laws affecting children;

(f) Cultural, ethnic and gender-specific issues;

(g) Domestic violence;

(h) Resources and services available in the community for children in need of protection;

(i) Child development;

(j) Standards for guardians ad litem;

(k) Confidentiality issues; and

(l) Such other topics as the court deems appropriate.

2. To qualify for appointment as a guardian ad litem pursuant to NRS 432B.500 in a judicial district that does not include a county whose population is less than 100,000, a special advocate must be qualified pursuant to the standards for training of the National Court Appointed Special Advocate Association or its successor. If such an Association ceases to exist, the court shall determine the standards for training.

Sec. 14. Chapter 389 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 and 16 of this act.

Sec. 15. *1. The Department, in consultation with persons and organizations who possess knowledge and expertise in the teaching of personal safety of children, shall develop:*

(a) Age-appropriate curriculum standards based on best practices for teaching the personal safety of children to pupils in kindergarten and grades 1 to 12, inclusive . ~~[; and]~~

(b) Recommendations to assist ~~[the board of trustees of]~~ *a school district or* ~~[the governing body of a]~~ *charter school in developing:*

(1) A training plan to ensure that ~~[all school employees receive]~~ at least one employee at each school, as designated by the principal, receives *training on* ~~[the teaching of]~~ *the personal safety of children;*

(2) Educational materials and information to be distributed to parents, guardians or other caretakers of pupils regarding the personal safety of children and how and when to teach and reinforce concepts and skills of the personal safety of children; and

(3) Policies and procedures for the referral of a child who ~~[may face unique or particular challenges related to the]~~ has reported or experienced an incident that did or could have threatened his or her *personal safety* , ~~[of children,]~~ *and his or her family or guardian, if appropriate, to various services, including, without limitation, counseling or any other available services or resources.*

(c) Recommendations of existing research-based programs and curriculum samples to be considered for implementation.

2. The Department will review the standards and recommendations developed pursuant to subsection 1 on an annual basis to ensure that those standards and recommendations contain current information.

3. The Department may apply for and accept grants, gifts, donations, bequests or devises from any public or private source to carry out the provisions of this section.

4. As used in this section, "personal safety of children" means an age-appropriate recognition of various hazards and dangers that are particular to children, including, without limitation, the danger associated with ~~[strangers, playground accidents, car, bicycle or pedestrian accidents,]~~ unsafe persons, both known and unknown to the child, *abuse,* ~~[animal bites,]~~ *becoming lost or separated from a parent or guardian, and an awareness of age-appropriate steps a child may take to avoid, lessen or alleviate those hazards and dangers, including, without limitation,* ~~[simple first aid,]~~ *reporting threats of harm to a responsible adult* . ~~[, the use of seat belts, bicycle and playground safety and rules applicable to pedestrians.]~~

Sec. 16. *1. The board of trustees of each school district and the governing body of each charter school shall* ~~[direct]~~ ensure *that instruction in the personal safety of children, based on the standards developed by the Department pursuant to section 15 of this act, be implemented as part of a*

course of study in health prescribed pursuant to paragraph (c) of subsection 3 of NRS 389.018.

2. The ~~[board of trustees]~~ school district and the ~~[governing body]~~ charter school, in accordance with the recommendations provided by the Department pursuant to subsection 1 of section 15 of this act, shall determine, for the instruction required ~~[pursuant to]~~ by subsection 1:

(a) The content of and materials to be used to provide the instruction; and

(b) The grade levels in which the instruction will be provided.

3. A person who provides the instruction required by subsection 1 must be:

(a) A licensed teacher;

(b) An employee of the school district with special knowledge or training in the teaching of the personal safety of children;

(c) An employee of an agency which has as its primary purpose the teaching of the personal safety of children; ~~[or]~~

(d) An employee of a law enforcement agency ~~[.]~~ ; or

(e) A volunteer of an agency which has as its primary purpose the teaching of the personal safety of children and who meets the requirements of subsection 8.

4. The school district and the charter school shall develop a procedure for the notification of the parent or guardian of each pupil to whom the instruction required by subsection 1 is to be provided. The procedure must inform the parent or guardian that:

(a) The parent or guardian may submit a written request that the pupil be excused from some or all of the instruction, except when the instruction is included in a course which is required for graduation; and

(b) All instructional materials to be used in the instruction required by subsection 1 are available for inspection by the parent or guardian at reasonable times and locations before the instruction is provided.

5. A pupil whose parent or guardian submits a written request pursuant to paragraph (a) of subsection 4 must be excused from such instruction without any penalty as to credits or academic standing.

6. The ~~[board of trustees]~~ school district and the ~~[governing body]~~ charter school shall consider the recommendations developed by the Department pursuant to paragraph (b) of subsection 1 of section 15 of this act and, to the extent money is available for this purpose, develop and implement:

(a) A training plan to ensure that all school employees receive training as to the teaching of the personal safety of children;

(b) Educational materials and information to be distributed to parents, guardians or other caretakers of pupils regarding the teaching of the personal safety of children; and

(c) Policies and procedures for the referral of a child who ~~[may face unique or particular challenges related to the]~~ has reported or experienced an incident that did or could have threatened his or her personal safety . ~~[of~~

~~children,]~~ and his or her family or guardian, if appropriate, to various services, including, without limitation, counseling or any other available services or resources.

~~[5.]~~ 7. On or before August 1 of each year, each board of trustees and each governing body shall report to the Department for the preceding year:

(a) The ~~[number of pupils who received]~~ grade levels in which the instruction required by subsection 1 ~~[,]~~ was conducted;

(b) ~~[Relevant statistics regarding the personal safety of children in the school district or charter school;]~~ The curriculum content and materials distributed and utilized for the instruction required by subsection 1;

(c) ~~[An evaluation of the effectiveness of]~~ The person, persons or agency utilized to provide the instruction required by subsection 1; and

(d) ~~[An evaluation of the development and implementation, if any, of the provisions of subsection 4 undertaken by the board of trustees or the governing body; and~~

~~(e) Any other information relating to this section that is requested by the Department.~~

~~6.]~~ The number of reports or disclosures by pupils of incidents that did or could have threatened their personal safety during the preceding school year.

8. An agency which has as its primary purpose the teaching of the personal safety of children, before allowing any volunteer of the agency to provide instruction pursuant to paragraph (e) of subsection 3, must ensure that the volunteer has successfully completed:

(a) A national background check, which must include, without limitation, a report of the criminal history of the volunteer from the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History;

(b) A child abuse and neglect screening through the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100; and

(c) Adequate and appropriate training specific to providing instruction regarding the personal safety of children.

9. An agency which has as its primary purpose the teaching of the personal safety of children shall, upon request from a school district or charter school and to the extent allowed by federal law, make available to the school district or charter school documentation of the agency's conclusions regarding a volunteer's successful completion of the requirements of subsection 8.

10. A board of trustees of a school district and a governing body of a charter school may apply for and accept grants, gifts, donations, bequests or devises from any public or private source to carry out the provisions of this section.

11. As used in this section, "personal safety of children" has the meaning ascribed to it in section 15 of this act.

Sec. 17. 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.

➥ 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 ~~[.]~~ *and the instruction prescribed by subsection 1 of section 16 of this act,* 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.

Sec. 18. ~~[A provider of foster care licensed to conduct a foster home pursuant to NRS 424.030 as of December 31, 2015, is not subject to the provisions of NRS 424.030, as amended by section 5 of this act, until January 1, 2018.]~~ (Deleted by amendment.)

Sec. 19. 1. This act becomes effective 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.

2. This section and sections 1 to 13, inclusive, and 18 of this act become effective on January 1, 2016, for all other purposes.

3. Sections 14 and 15 of this act become effective on July 1, 2016, for all other purposes.

4. Sections 16 and 17 of this act become effective on July 1, 2020, for all other purposes.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 612 to Senate Bill No. 394 removes all provisions related to the reasonable and prudent parent standards for determining whether a foster child may participate in age and developmentally appropriate extracurricular, enrichment, cultural and social activities and deletes sections 2-10. It also requires the school district or charter school, rather than the board of trustees or governing body, to determine the appropriate grade levels, course content and materials for certain personal safety instruction. It specifies that the personal safety instruction may be provided by a volunteer of an agency, which has as its primary purpose the teaching of personal safety to children, who has undergone a background investigation and has special training in the teaching of personal safety. The bill also provides that the parent or guardian of each pupil to whom such instruction will be provided must be notified of such instruction and provided with an opportunity to review the instructional materials to be used and to submit a written request that the pupil be excused from the instruction, unless the course in which the instruction is provided is required for graduation. Finally, it revises the information required to be included in a report to the Department of Education for the preceding year regarding the personal safety instruction and certain incidents reported by pupils that did or could have threatened their personal safety.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 406.

Bill read second time.

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

Amendment No. 475.

SUMMARY—Revises provisions relating to public retirement systems. (BDR 23-1049)

AN ACT relating to public retirement systems; providing that certain members of public retirement systems who are convicted of or plead guilty or nolo contendere to ~~[a felony]~~ certain felonies forfeit, with limited exceptions, all rights and benefits under the relevant system; amending the amount of postretirement increases for persons who become members of public retirement systems on or after July 1, 2015; providing an additional benefit option for a surviving spouse or survivor beneficiary of a police officer or

firefighter killed in the line of duty or other member killed in the course of employment, judicial service or legislative service; amending the age of eligibility to receive retirement benefits for persons, other than police officers or firefighters, who become members of the Public Employees' Retirement System or Judicial Retirement Plan on or after July 1, 2015; revising provisions relating to the calculation of the years of service of certain members of the Public Employees' Retirement System, the Judicial Retirement Plan and the Legislators' Retirement System; providing ~~[generally]~~ , with a limited exception, that the purchase of service credit cannot be used to reduce the number of years of service a member of each respective retirement system must earn to retire with an unreduced benefit; limiting the amount of compensation that may be used to determine retirement benefits for persons who become members of public retirement systems on or after July 1, 2015; revising the formula for calculating retirement allowances for persons who become members of certain public retirement systems on or after July 1, 2015; clarifying that the term "spouse" includes a domestic partner for purposes of eligibility for survivor benefits from a public retirement system; removing the expiration date of certain provisions relating to retired public employees who fill positions for which there are critical labor shortages; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Retired public employees receive retirement allowances through membership in and contributions to the Public Employees' Retirement System. (Chapter 286 of NRS) Retired justices of the Supreme Court, judges of the Court of Appeals, district judges, justices of the peace and municipal judges receive retirement allowances through membership in and contributions to the Judicial Retirement Plan. (Chapter 1A of NRS) Legislators receive retirement allowances through membership in and contributions to the Legislators' Retirement System. (Chapter 218C of NRS) This bill makes a number of changes to these public retirement systems.

Sections 2, 17 and 26 of this bill provide that if a person becomes a member of the Public Employees' Retirement System, Judicial Retirement Plan or Legislators' Retirement System, respectively, on or after July 1, 2015, and that member is convicted of or pleads guilty or nolo contendere to ~~[any felony,]~~ certain felonies, the member forfeits, with limited exceptions, all rights and benefits under the relevant retirement system.

Existing law provides for postretirement increases for members of the Public Employees' Retirement System, Judicial Retirement Plan and Legislators' Retirement System. (NRS 1A.240, 286.571, 218C.510) Section 3 of this bill reduces the postretirement increases for retirees who become members of the retirement systems on or after July 1, 2015.

Existing law sets forth several benefit options for surviving spouses of deceased members of the Public Employees' Retirement System, the Judicial Retirement Plan and the Legislators' Retirement System.

(NRS 1A.590-1A.610, 218C.580, 286.674-286.6766) Existing law also sets forth several benefit options for survivor beneficiaries of deceased members of the Public Employees' Retirement System, the Judicial Retirement Plan and the Legislators' Retirement System if a member is unmarried on the date of the member's death. (NRS 1A.620-1A.650, 218C.580, 286.6767-286.6769) Sections 4, 16 and 27 of this bill provide an additional benefit option for the spouse of a member who is killed in the line of duty, the course of employment, the course of judicial service or the course of legislative service, as applicable. This additional option authorizes the surviving spouse to receive a benefit that is equivalent to the greater of: (1) fifty percent of the salary of the member on the date of the member's death; or (2) one hundred percent of the retirement allowance that the member was eligible to receive based on the member's years of service obtained before the member's death without any reduction for age for the deceased member. Sections 4.5, 16.5 and 27.5 of this bill provide that this additional benefit option is available to a survivor beneficiary if the deceased member is unmarried on the date of the member's death.

Under existing law, a person who becomes a member of the Public Employees' Retirement System on or after January 1, 2010, other than a police officer or firefighter, is eligible to retire at 65 years of age if he or she has at least 5 years of service, at 62 years of age if he or she has at least 10 years of service and at any age if he or she has at least 30 years of service. (NRS 286.510) Section 5 of this bill provides that a person who becomes a member of the System on or after July 1, 2015, other than a police officer or firefighter, is eligible to retire at 65 years of age if he or she has at least 5 years of service, at 62 years of age if he or she has at least 10 years of service, at 55 years of age if he or she has at least 30 years of service, and at any age if he or she has at least 33 1/3 years of service. Section 20 of this bill makes the eligibility requirements for retirement relating to age and service consistent between public employees and justices of the Supreme Court, judges of the Court of Appeals, district judges, justices of the peace and municipal judges.

Sections 5, 20 and 28 of this bill provide, respectively, that for a member of the Public Employees' Retirement System, Judicial Retirement Plan or Legislators' Retirement System, the calculation of the member's years of service for the purpose of determining the age at which the member may retire with an unreduced benefit must not include any year or part of a year of service credit purchased by the member or on behalf of the member. Sections 5, 20 and 28 provide a limited exception if the member has a family medical emergency.

Under existing law, the amount of a member's monthly retirement benefit is based on the member's compensation while employed, subject to certain limitations. (NRS 1A.390, 1A.400, 1A.410, 286.535, 286.537, 286.551, 218C.520, 218C.530) Sections 6, 21 and 29 of this bill limit the amount of compensation used to determine the retirement benefit of a person who

becomes a member of a public retirement system on or after July 1, 2015, to $200,000, plus certain adjustments based on changes in the Consumer Price Index.

Under existing law, the monthly retirement allowance for a person who became a member of the Public Employees' Retirement System on or after January 1, 2010, is calculated by multiplying a member's average compensation, over the member's 36 consecutive months of highest compensation, by 2.5 percent for every year of service earned. (NRS 286.551) Section 7 of this bill provides that the monthly retirement allowance for each person who has an effective date of membership on or after July 1, 2015, other than a police officer or firefighter, will be determined by multiplying the member's average compensation by 2.25 percent for every year of service with the member's eligibility for service credit ceasing at 33 1/3 years of service.

Under existing law, members of the Judicial Retirement Plan do not pay contributions into the Plan. (NRS 1A.180) Section 15 of this bill requires members of the Plan who have an effective date of membership on or after July 1, 2015, to pay 50 percent of the required contributions to the Plan.

Under existing law, the monthly retirement allowance for a member of the Judicial Retirement Plan is calculated by multiplying a member's average compensation, over the member's 36 consecutive months of highest compensation, by 3.4091 percent for every year of service earned. (NRS 1A.440) Section 22 of this bill provides that the monthly retirement allowance for each person who has an effective date of membership on or after July 1, 2015, will be determined by multiplying the member's average compensation by 3.1591 percent for every year of service.

Sections 10, 14, 24 and 27 of this bill clarify that the term "spouse" includes a domestic partner for purposes of determining eligibility to receive survivor benefits from a public retirement system.

Existing law provides that a retired public employee who accepts employment or an independent contract with a public employer under the Public Employees' Retirement System is disqualified under certain circumstances from receiving allowances under the System for the duration of that employment or contract. (NRS 286.520) Existing law also provides an exception to this disqualification if the retired public employee fills a position for which there is a critical labor shortage. (NRS 286.523) This exception is scheduled to expire on June 30, 2015. (Chapter 346, Statutes of Nevada 2009, p. 1550) Sections 29.6 and 29.8 of this bill remove the expiration date of this exception.

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

Section 1. Chapter 286 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 [, 3 and 4] to 4.5, inclusive, of this act.

Sec. 2. *1. Except as otherwise provided in subsections 2 and 3, a member who is convicted of or pleads guilty or nolo contendere to any felony involving:*

(a) Accepting or giving, or offering to give, any bribe;

(b) Embezzlement of public money;

(c) Extortion or theft of public money;

(d) Perjury; or

(e) Conspiracy to commit any crime set forth in paragraphs (a) to (d), inclusive,

➥ *and arising directly out of his or her duties as an employee, forfeits all rights and benefits under the System.*

2. Upon a conviction described in subsection 1, the System must return to the member, without interest, all contributions which the member has made and which were credited to the member's individual account.

3. The provisions of subsections 1 and 2 apply only to persons who become members of the System on or after July 1, 2015.

Sec. 3. *1. For a person who retires and who has an effective date of membership on or after July 1, 2015, allowances or benefits must be increased once each year on the first day of the month immediately following the anniversary date the person began receiving the allowance or benefit:*

(a) By 2 percent following the 3rd, 4th and 5th anniversaries of the commencement of benefits.

(b) By 2.5 percent following the 6th, 7th and 8th anniversaries of the commencement of benefits.

(c) By the lesser of 3 percent or the increase, if any, in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year following the 9th anniversary of the commencement of benefits and each year thereafter.

2. The base from which the increase provided by this section must be calculated is the allowance or benefit in effect on the day before the increase becomes effective.

Sec. 4. *1. The spouse of a member who is a police officer or firefighter killed in the line of duty or the spouse of any other member killed in the course of employment is entitled to receive a monthly allowance equivalent to the greater of:*

(a) Fifty percent of the salary of the member on the date of the member's death; or

(b) One hundred percent of the retirement allowance that the member was eligible to receive based on the member's years of service obtained before the member's death without any reduction for age for the deceased member.

2. The benefits provided by this section must be paid to the spouse for the remainder of the spouse's life.

3. The spouse may elect to receive the benefits provided by any one of the following only:

(a) This section;

(b) NRS 286.674;

(c) NRS 286.676;

(d) NRS 286.6765; or

(e) NRS 286.6766.

4. For the purposes of this section, the Board shall define by regulation "killed in the line of duty" and "killed in the course of employment."

Sec. 4.5. 1. Except as otherwise provided in subsection 2, the survivor beneficiary of a member who is a police officer or firefighter killed in the line of duty or the survivor beneficiary of any other member killed in the course of employment is entitled to receive a monthly allowance equivalent to the greater of:

(a) Fifty percent of the salary of the member on the date of the member's death; or

(b) One hundred percent of the retirement allowance that the member was eligible to receive based on the member's years of service obtained before the member's death without any reduction for age for the deceased member.

2. If the member had designated one or more payees in addition to the survivor beneficiary pursuant to NRS 286.6767, the monthly allowance to which a survivor beneficiary is entitled pursuant to subsection 1 must be divided between the survivor beneficiary and any additional payees in the proportion designated by the member pursuant to NRS 286.6767.

3. The benefits provided by this section must be paid to the survivor beneficiary for the remainder of the survivor beneficiary's life.

4. The survivor beneficiary may elect to receive the benefits provided by any one of the following only:

(a) This section;

(b) NRS 286.67675;

(c) NRS 286.6768;

(d) NRS 286.67685; or

(e) NRS 286.6769.

5. For the purposes of this section, the Board shall define by regulation "killed in the line of duty" and "killed in the course of employment."

6. As used in this section, "survivor beneficiary" means a person designated pursuant to NRS 286.6767.

Sec. 5. NRS 286.510 is hereby amended to read as follows:

286.510 1. Except as otherwise provided in subsections 2 and 3, a member of the System:

(a) Who has an effective date of membership before January 1, 2010, is eligible to retire at age 65 if the member has at least 5 years of service, at age 60 if the member has at least 10 years of service and at any age if the member has at least 30 years of service.

(b) Who has an effective date of membership on or after January 1, 2010, *and before July 1, 2015,* is eligible to retire at age 65 if the member has at least 5 years of service, at age 62 if the member has at least 10 years of service and at any age if the member has at least 30 years of service.

(c) Who has an effective date of membership on or after July 1, 2015, is eligible to retire at age 65 if the member has at least 5 years of service, at age 62 if the member has at least 10 years of service, at age 55 if the member has at least 30 years of service and at any age if the member has at least 33 1/3 years of service. For the purposes of this paragraph, any year or part of a year of service purchased by a member pursuant to subsection 2 or 3 of NRS 286.300 or purchased on behalf of the member pursuant to subsection 4 of NRS 286.300 or as authorized by NRS 286.3005 and 286.3007 must not be considered in determining the number of years of service of a member ~~[.]~~ *unless the member has a family medical emergency. For the purposes of this paragraph, the Board shall define by regulation "family medical emergency" and set forth by regulation the circumstances in which purchased service credit may be considered in determining the number of years of service of a member who has a family medical emergency.*

2. A police officer or firefighter:

(a) Who has an effective date of membership before January 1, 2010, is eligible to retire at age 65 if the police officer or firefighter has at least 5 years of service, at age 55 if the police officer or firefighter has at least 10 years of service, at age 50 if the police officer or firefighter has at least 20 years of service and at any age if the police officer or firefighter has at least 25 years of service.

(b) Who has an effective date of membership on or after January 1, 2010, *and before July 1, 2015,* is eligible to retire at age 65 if the police officer or firefighter has at least 5 years of service, at age 60 if the police officer or firefighter has at least 10 years of service and at age 50 if the police officer or firefighter has at least 20 years of service.

(c) Who has an effective date of membership on or after July 1, 2015, is eligible to retire at age 65 if the police officer or firefighter has at least 5 years of service, at age 60 if the police officer or firefighter has at least 10 years of service and at age 50 if the police officer or firefighter has at least 20 years of service. For the purposes of this paragraph, any year or part of a year of service purchased by a police officer or firefighter pursuant to subsection 2 or 3 of NRS 286.300 or subsection 7 of NRS 286.367 or purchased on behalf of the police officer or firefighter as authorized by NRS 286.3005 and 286.3007 must not be considered in determining the number of years of service of a police officer or firefighter ~~[.]~~ *unless the police officer or firefighter has a family medical emergency. For the purposes of this paragraph, the Board shall define by regulation "family medical emergency" and set forth by regulation the circumstances in which purchased service credit may be considered in determining the number of years of service of a police officer or firefighter who has a family medical emergency.*

➥ Only service performed in a position as a police officer or firefighter, established as such by statute or regulation, service performed pursuant to

subsection 3 and credit for military service, may be counted toward eligibility for retirement pursuant to this subsection.

3. Except as otherwise provided in subsection 4, a police officer or firefighter who has at least 5 years of service as a police officer or firefighter and is otherwise eligible to apply for disability retirement pursuant to NRS 286.620 because of an injury arising out of and in the course of the police officer's or firefighter's employment remains eligible for retirement pursuant to subsection 2 if:

(a) The police officer or firefighter applies to the Board for disability retirement and the Board approves the police officer's or firefighter's application;

(b) In lieu of a disability retirement allowance, the police officer or firefighter accepts another position with the public employer with which the police officer or firefighter was employed when the police officer or firefighter became disabled as soon as practicable but not later than 90 days after the Board approves the police officer's or firefighter's application for disability retirement;

(c) The police officer or firefighter remains continuously employed by that public employer until the police officer or firefighter becomes eligible for retirement pursuant to subsection 2; and

(d) After the police officer or firefighter accepts a position pursuant to paragraph (b), the police officer's or firefighter's contributions are paid at the rate that is actuarially determined for police officers and firefighters until the police officer or firefighter becomes eligible for retirement pursuant to subsection 2.

4. If a police officer or firefighter who accepted another position with the public employer with which the police officer or firefighter was employed when the police officer or firefighter became disabled pursuant to subsection 3 ceases to work for that public employer before becoming eligible to retire pursuant to subsection 2, the police officer or firefighter may begin to receive a disability retirement allowance without further approval by the Board by notifying the Board on a form prescribed by the Board.

5. Eligibility for retirement, as provided in this section, does not require the member to have been a participant in the System at the beginning of the police officer's or firefighter's credited service.

6. Any member who has the years of creditable service necessary to retire but has not attained the required age, if any, may retire at any age with a benefit actuarially reduced to the required retirement age. Except as otherwise required as a result of NRS 286.537, a retirement benefit pursuant to this subsection must be reduced:

(a) If the member has an effective date of membership before January 1, 2010, by 4 percent of the unmodified benefit for each full year that the member is under the appropriate retirement age, and an additional 0.33 percent for each additional month that the member is under the appropriate retirement age.

(b) If the member has an effective date of membership on or after January 1, 2010, by 6 percent of the unmodified benefit for each full year that the member is under the appropriate retirement age, and an additional 0.5 percent for each additional month that the member is under the appropriate retirement age.

➥ Any option selected pursuant to this subsection must be reduced by an amount proportionate to the reduction provided in this subsection for the unmodified benefit. The Board may adjust the actuarial reduction based upon an experience study of the System and recommendation by the actuary.

Sec. 6. NRS 286.535 is hereby amended to read as follows:

286.535 Notwithstanding any other provision of law, the amount of compensation used to determine the retirement benefit of a member of the System must not exceed:

1. For persons who first became members of the System before July 1, 1996, the limitation provided by section 401(a)(17) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)), as that section existed on July 1, 1993.

2. For persons who first became members of the System on or after July 1, 1996, the limitation provided by section 401(a)(17) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)), as that section existed on July 1, 1996.

3. For persons who first became members of the System on or after July 1, 2015, the lesser of:

(a) The limitation provided by section 401(a)(17) of the Internal Revenue Code (26 U.S.C. § 401(a)(17)), as that section existed on July 1, 2015; or

(b) Two hundred thousand dollars. The limitation set forth in this paragraph must be adjusted by the Board every year by an amount equal to the average percentage increase in the Consumer Price Index (All Items) for the immediately preceding 3-year period.

Sec. 7. NRS 286.551 is hereby amended to read as follows:

286.551 Except as otherwise required as a result of NRS 286.535 or 286.537:

1. Except as otherwise provided in subsection 2:

(a) For a member who has an effective date of membership before January 1, 2010, a monthly service retirement allowance must be determined by multiplying ~~[a]~~ *the* member's average compensation by 2.5 percent for each year of service earned before July 1, 2001, and 2.67 percent for each year of service earned on or after July 1, 2001.

(b) *For a member who is a police officer or firefighter and who has an effective date of membership on or after January 1, 2010, a monthly service retirement allowance must be determined by multiplying the member's average compensation by 2.5 percent for each year of service earned.*

(c) For a member who *is not a police officer or firefighter and who* has an effective date of membership on or after January 1, 2010, *and before July 1, 2015,* a monthly service retirement allowance must be determined by

multiplying ~~[a]~~ *the* member's average compensation by 2.5 percent for each year of service earned.

(d) For a member who is not a police officer or firefighter and who has an effective date of membership on or after July 1, 2015, a monthly service retirement allowance must be determined by multiplying the member's average compensation by 2.25 percent for each year of service earned.

2. A member:

(a) *Who is not a police officer or firefighter and who has an effective date of membership on or after July 1, 2015, is entitled to a benefit of not more than 75 percent of the member's average compensation with the member's eligibility for service credit ceasing at 33 1/3 years of service.*

(b) Who *is not a police officer or firefighter and who* has an effective date of membership on or after July 1, 1985, *and before July 1, 2015,* is entitled to a benefit of not more than 75 percent of the member's average compensation with the member's eligibility for service credit ceasing at 30 years of service.

~~[(b)]~~ *(c) Who is a police officer or firefighter and who has an effective date of membership on or after July 1, 1985, is entitled to a benefit of not more than 75 percent of the member's average compensation with the member's eligibility for service credit ceasing at 30 years.*

(d) Who has an effective date of membership before July 1, 1985, and retires on or after July 1, 1977, is entitled to a benefit of not more than 90 percent of the member's average compensation with the member's eligibility for service credit ceasing at 36 years of service.

➥ In no case may the service retirement allowance determined pursuant to this section be less than the allowance to which the retired employee would have been entitled pursuant to the provisions of this section which were in effect on the day before July 3, 1991.

3. For the purposes of this section, except as otherwise provided in subsections 4, 5 and 6, "average compensation" means the average of a member's 36 consecutive months of highest compensation as certified by the public employer.

4. Except as otherwise provided in subsection 5, for an employee who becomes a member of the System on or after January 1, 2010, the following limits must be observed when calculating the member's average compensation based on a 60-month period that commences 24 months immediately preceding the 36 consecutive months of highest compensation:

(a) The compensation for the 13th through the 24th months may not exceed the actual compensation amount for the 1st through the 12th months by more than 10 percent;

(b) The compensation for the 25th through the 36th months may not exceed by more than 10 percent the lesser of:

(1) The maximum compensation amount allowed pursuant to paragraph (a); or

(2) The actual compensation amount for the 13th through the 24th months;

(c) The compensation for the 37th through the 48th months may not exceed by more than 10 percent the lesser of:

(1) The maximum compensation amount allowed pursuant to paragraph (b); or

(2) The actual compensation amount for the 25th through the 36th months; and

(d) The compensation for the 49th through the 60th months may not exceed by more than 10 percent the lesser of:

(1) The maximum average compensation amount allowed pursuant to paragraph (c); or

(2) The actual compensation amount for the 37th through the 48th months.

5. Compensation attributable to a promotion and assignment-related compensation must be excluded when calculating the limits pursuant to subsection 4.

6. The average compensation of a member who has a break in service or partial months of compensation, or both, as a result of service as a Legislator during a regular or special session of the Nevada Legislature must be calculated on the basis of the average of the member's 36 consecutive months of highest compensation as certified by the member's public employer excluding each month during any part of which the Legislature was in session. This subsection does not affect the computation of years of service.

7. The retirement allowance for a regular part-time employee must be computed from the salary which the employee would have received as a full-time employee if it results in greater benefits for the employee. A regular part-time employee is a person who works half-time or more, but less than full-time:

(a) According to the regular schedule established by the employer for the employee's position; and

(b) Pursuant to an established agreement between the employer and the employee.

Sec. 8. NRS 286.571 is hereby amended to read as follows:

286.571 1. Except as otherwise provided in subsection 2, for a person who retires and who has an effective date of membership on or after January 1, 2010, *and before July 1, 2015,* allowances or benefits must be increased once each year on the first day of the month immediately following the anniversary of the date the person began receiving the allowance or benefit, by the lesser of:

(a) Two percent following the 3rd anniversary of the commencement of benefits, 3 percent following the 6th anniversary of the commencement of benefits, 3.5 percent following the 9th anniversary of the commencement of benefits, 4 percent following the 12th anniversary of the commencement of benefits and each year thereafter; or

(b) The average percentage of increase in the Consumer Price Index (All Items) for the 3 preceding years, unless a different index is substituted by the Board.

2. In any event, the allowance or benefit of a member must be increased by the percentages set forth in paragraph (a) of subsection 1 if the allowance or benefit of a member has not increased at a rate greater than or equal to the average of the Consumer Price Index (All Items), unless a different index is substituted by the Board, for the period between the date of the member's retirement and the date specified in subsection 1.

3. The Board may use a different index for the calculation made pursuant to paragraph (b) of subsection 1 if:

(a) The substituted index is compiled and published by the United States Department of Labor; and

(b) The Board determines that the substituted index represents a more accurate measurement of the cost of living for retired employees.

4. The base from which the increase provided by this section must be calculated is the allowance or benefit in effect on the day before the increase becomes effective.

Sec. 9. NRS 286.5756 is hereby amended to read as follows:

286.5756 1. ~~[A]~~ *Except as otherwise provided in NRS 286.571 and section 3 of this act, a* person is entitled to the increase provided in this section if the person began receiving an allowance or benefit:

(a) Before September 1, 1983, and has received the allowance or benefit for at least 6 continuous months in the 12 months preceding the effective date of the increase; or

(b) At least 3 years before the increase.

2. Except as otherwise provided in subsection 3, allowances or benefits increase once each year on the first day of the month immediately following the anniversary of the date the person began receiving the allowance or benefit, by the lesser of:

(a) Two percent following the 3rd anniversary of the commencement of benefits, 3 percent following the 6th anniversary of the commencement of benefits, 3.5 percent following the 9th anniversary of the commencement of benefits, 4 percent following the 12th anniversary of the commencement of benefits and 5 percent following the 14th anniversary of the commencement of benefits; or

(b) The average percentage of increase in the Consumer Price Index (All Items) for the 3 preceding years, unless a different index is substituted by the Board.

3. In any event, the allowance or benefit of a member must be increased by the percentages set forth in paragraph (a) of subsection 2 if the allowance or benefit of a member has not increased at a rate greater than or equal to the average of the Consumer Price Index (All Items), unless a different index is substituted by the Board, for the period between the date of the member's retirement and the date specified in subsection 2.

4. The Board may use a different index for the calculation made pursuant to paragraph (b) of subsection 2 if:

(a) The substituted index is compiled and published by the United States Department of Labor; and

(b) The Board determines that the substituted index represents a more accurate measurement of the cost of living for retired employees.

5. The base from which the increase provided by this section must be calculated is the allowance or benefit in effect on the day before the increase becomes effective.

Sec. 10. NRS 286.671 is hereby amended to read as follows:

286.671 As used in NRS 286.671 to 286.679, inclusive ~~[:]~~ *, and ~~[section]~~ sections 4 and 4.5 of this act:*

1. "Child" means an unmarried person under 18 years of age who is the issue or legally adopted child of a deceased member. As used in this subsection, "issue" means the progeny or biological offspring of the deceased member.

2. "Dependent parent" means the surviving parent of a deceased member who was dependent upon the deceased member for at least 50 percent of the surviving parent's support for at least 6 months immediately preceding the death of the deceased member.

3. *"Domestic partner" means a person who is in a domestic partnership that is registered pursuant to chapter 122A of NRS, and that has not been terminated pursuant to that chapter.*

4. "Spouse" means the surviving husband or wife *or domestic partner* of a deceased member.

Sec. 11. NRS 286.672 is hereby amended to read as follows:

286.672 1. Except as otherwise provided in subsection 3 ~~[,]~~ *and ~~[section]~~ sections 4 and 4.5 of this act,* if a deceased member had 2 years of accredited contributing service in the 2 1/2 years immediately preceding the member's death or was a regular, part-time employee who had 2 or more years of creditable contributing service before and at least 1 day of contributing service within 6 months immediately preceding the member's death, or if the employee had 10 or more years of accredited contributing service, certain of the deceased member's dependents are eligible for payments as provided in NRS 286.671 to 286.679, inclusive ~~[,]~~ *, and ~~[section]~~ sections 4 and 4.5 of this act.* If the death of the member resulted from a mental or physical condition which required the member to leave the employ of a participating public employer or go on leave without pay, eligibility pursuant to the provisions of this section extends for 18 months after the member's termination or commencement of leave without pay.

2. If the death of a member occurs while the member is on leave of absence granted by the member's employer for further training and if the member met the requirements of subsection 1 at the time the member's leave began, certain of the deceased member's dependents are eligible for payments as provided in subsection 1.

3. If the death of a member is caused by an occupational disease or an accident arising out of and in the course of the member's employment, no prior contributing service is required to make the deceased member's dependents eligible for payments pursuant to NRS 286.671 to 286.679, inclusive, *and ~~[section]~~ sections 4 and 4.5 of this act,* except that this subsection does not apply to an accident occurring while the member is traveling between the member's home and the member's principal place of employment or to an accident or occupational disease arising out of employment for which no contribution is made.

4. As used in this section, "dependent" includes a survivor beneficiary designated pursuant to NRS 286.6767.

Sec. 12. NRS 286.679 is hereby amended to read as follows:

286.679 1. If payments to a beneficiary pursuant to NRS 286.671 to 286.679, inclusive, *and ~~[section]~~ sections 4 and 4.5 of this act,* cease before the total contributions of a deceased member have been paid in benefits, and there is no person entitled to receive such benefits pursuant to any provision of this chapter, the surplus of such contributions over the benefits actually received may be paid in a lump sum to:

(a) The beneficiary whom the deceased member designated for this purpose in writing on a form approved by the System.

(b) If no such designation was made or the person designated is deceased, the beneficiary who previously received the payments.

(c) If no payment may be made pursuant to paragraphs (a) and (b), the persons entitled as heirs or residuary legatees to the estate of the deceased member.

2. A lump-sum payment made pursuant to this section fully discharges the obligations of the System.

Sec. 13. Chapter 1A of NRS is hereby amended by adding thereto the provisions set forth as sections 14 to 17, inclusive, of this act.

Sec. 14. *"Domestic partner" means a person who is in a domestic partnership which is registered pursuant to chapter 122A of NRS and which has not been terminated pursuant to that chapter.*

Sec. 15. *For members of the Judicial Retirement Plan who have an effective date of membership on or after July 1, 2015:*

1. A member must pay 50 percent of the total contribution rate that is actuarially determined for members of the Judicial Retirement Plan pursuant to NRS 1A.180.

2. The amount described in subsection 1 must be deducted from each payroll during the period of the member's membership in the Judicial Retirement Plan and transmitted to the Board at intervals designated and upon forms prescribed by the Board. The contributions must be paid on compensation earned by a member from the member's first day of service.

3. The Judicial Retirement Plan shall guarantee to each member the return of at least the total contributions which the member has made and which were credited to the member's individual account. These contributions

may be returned to the member, the member's estate or beneficiary or a combination thereof in monthly benefits, a lump-sum refund or both. The relevant provisions of NRS 286.430 apply to a member of the Judicial Retirement Plan who withdraws his or her contributions to the Plan pursuant to this section.

Sec. 16. *1. The spouse of a member killed in the course of judicial service is entitled to receive a monthly allowance equivalent to the greater of:*

(a) Fifty percent of the salary of the member on the date of the member's death; or

(b) One hundred percent of the retirement allowance that the member was eligible to receive based on the member's years of service obtained before the member's death without any reduction for age for the deceased member.

2. The benefits provided by this section must be paid to the spouse for the remainder of the spouse's life.

3. The spouse may elect to receive the benefits by any one of the following only:

(a) This section;

(b) NRS 1A.590;

(c) NRS 1A.600; or

(d) NRS 1A.610.

4. For the purposes of this section, the Board shall define by regulation "killed in the course of judicial service."

Sec. 16.5. *1. Except as otherwise provided in subsection 2, the survivor beneficiary of a member of the Judicial Retirement Plan killed in the course of judicial service is entitled to receive a monthly allowance equivalent to the greater of:*

(a) Fifty percent of the salary of the member on the date of the member's death; or

(b) One hundred percent of the retirement allowance that the member was eligible to receive based on the member's years of service obtained before the member's death without any reduction for age for the deceased member.

2. If the member had designated one or more payees in addition to the survivor beneficiary pursuant to NRS 1A.620, the monthly allowance to which a survivor beneficiary is entitled pursuant to subsection 1 must be divided between the survivor beneficiary and any additional payees in the proportion designated by the member pursuant to NRS 1A.620.

3. The benefits provided by this section must be paid to the survivor beneficiary for the remainder of the beneficiary's life.

4. The survivor beneficiary may elect to receive the benefits provided by any one of the following only:

(a) This section;

(b) NRS 1A.630;

(c) NRS 1A.640; or

(d) NRS 1A.650.

5. For the purposes of this section, the Board shall define by regulation "killed in the course of judicial service."

6. As used in this section, "survivor beneficiary" means a person designated pursuant to NRS 1A.620.

Sec. 17. *1. Except as otherwise provided in subsections 2 and 3, a member of the System who is convicted of or pleads guilty or nolo contendere to any felony involving:*

(a) Accepting or giving, or offering to give, any bribe;

(b) Embezzlement of public money;

(c) Extortion or theft of public money;

(d) Perjury; or

(e) Conspiracy to commit any crime set forth in paragraphs (a) to (d), inclusive,

➥ and arising directly out of his or her duties in judicial service, forfeits all rights and benefits under the System.

2. Upon a conviction described in subsection 1, the System must return to the member, without interest, all contributions which the member has made and which were credited to the member's individual account.

3. The provisions of subsections 1 and 2 apply only to persons who become members of the System on or after July 1, 2015.

Sec. 18. NRS 1A.160 is hereby amended to read as follows:

1A.160 1. The Judicial Retirement Fund is hereby established as a trust fund.

2. It is hereby declared to be the policy of the Legislature that the Judicial Retirement Fund is established to afford a degree of security to long-time justices of the Supreme Court, judges of the Court of Appeals, district judges, justices of the peace and municipal judges in this State. The money in the Fund must not be used or appropriated for any purpose incompatible with the provisions of this chapter or NRS 2.060 to 2.083, inclusive, 2A.100 to 2A.150, inclusive, or 3.090 to 3.099, inclusive. The Fund must be invested and administered to ensure the highest return consistent with safety in accordance with accepted investment practices.

3. All money appropriated by the Legislature to the Judicial Retirement Fund, all money submitted to the System for deposit in the Fund pursuant to NRS 1A.180 *and section 15 of this act,* and all income accruing to the Fund from all other sources must be deposited in the Fund.

4. The interest and income earned on the money in the Judicial Retirement Fund, after deducting any applicable charges, must be credited to the Fund.

5. The System must pay all retirement allowances, benefits, optional settlements and other obligations or payments payable by the System pursuant to this chapter and NRS 2.060 to 2.083, inclusive, 2A.100 to 2A.150, inclusive, and 3.090 to 3.099, inclusive, from the Judicial Retirement Fund. The money in the Fund must be expended by the Board for the payment of expenses authorized by law to be paid from the Fund.

Sec. 19. NRS 1A.180 is hereby amended to read as follows:

1A.180 *Except as otherwise provided in section 15 of this act:*

1. The Court Administrator shall submit to the System for deposit in the Judicial Retirement Fund on behalf of each justice of the Supreme Court, judge of the Court of Appeals or district judge who is a member of the System the percentage of compensation of the member that is determined by the actuary of the System to be required to pay the normal cost incurred in making payments for such members pursuant to subsection 5 of NRS 1A.160 and the administrative expenses of the System that are attributable to such members. Such payments must be:

(a) Accompanied by payroll reports that include information deemed necessary by the Board to carry out its duties; and

(b) Received by the System not later than 15 days after the calendar month for which the compensation and service credits of members of the System are reported and certified by the Court Administrator. The compensation must be reported separately for each month that it is paid.

2. The State of Nevada shall make an appropriation to the Court Administrator and the Court Administrator shall pay to the System for deposit in the Judicial Retirement Fund from any fund created for the purpose of paying pension benefits to justices of the Supreme Court, judges of the Court of Appeals or district judges an amount as the contribution of the State of Nevada as employer which is actuarially determined to be sufficient to provide the System with enough money to pay the benefits for justices of the Supreme Court, judges of the Court of Appeals and district judges for which the System will be liable.

3. Upon the participation of a justice of the peace or municipal judge in the Judicial Retirement Plan pursuant to NRS 1A.285, the county or city shall submit to the System for deposit in the Judicial Retirement Fund on behalf of each justice of the peace or municipal judge who is a member of the System the percentage of compensation of the member that is determined by the actuary of the System to be required to pay the normal cost incurred in making payments for such members pursuant to subsection 5 of NRS 1A.160 and the administrative expenses of the System that are attributable to such members. Such payments must be:

(a) Accompanied by payroll reports that include information deemed necessary by the Board to carry out its duties; and

(b) Received by the System not later than 15 days after the calendar month for which the compensation and service credits of members of the System are reported and certified by the county or city. The compensation must be reported separately for each month that it is paid.

4. Upon the participation of a justice of the peace or municipal judge in the Judicial Retirement Plan pursuant to NRS 1A.285, the county or city shall pay to the System for deposit in the Judicial Retirement Fund an amount as the contribution of the county or city as employer which is actuarially determined to be sufficient to provide the System with enough

money to pay the benefits for justices of the peace and municipal judges for which the System will be liable.

5. Except as otherwise provided in this subsection, the total contribution rate that is actuarially determined for members of the Judicial Retirement Plan must be adjusted on the first monthly retirement reporting period commencing on or after July 1 of each odd-numbered year based on the actuarially determined contribution rate indicated in the biennial actuarial valuation and report. The adjusted rate must be rounded to the nearest one-quarter of 1 percent. The total contribution rate must not be adjusted pursuant to this subsection if the existing rate is within one-half of 1 percent of the actuarially determined rate.

Sec. 20. NRS 1A.350 is hereby amended to read as follows:

1A.350 1. A member of the Judicial Retirement Plan *:*

(a) Who has an effective date of membership before July 1, 2015, is eligible to retire at the age of 65 years if the member has at least 5 years of service, at the age of 60 years if the member has at least 10 years of service and at any age if the member has at least 30 years of service.

(b) Who has an effective date of membership on or after July 1, 2015, is eligible to retire at the age of 65 years if the member has at least 5 years of service, at the age of 62 years if the member has at least 10 years of service and at age 55 if the member has at least 30 years of service and at any age if the member has at least 33 1/3 years of service. For the purposes of this paragraph, any year or part of a year of service purchased pursuant to NRS 1A.310 by a member of the Judicial Retirement Plan who has an effective date of membership on or after July 1, 2015, must not be considered in determining the number of years of service of the member ~~[.]~~ *unless the member has a family medical emergency. For the purposes of this paragraph, the Board shall define by regulation "family medical emergency" and set forth by regulation the circumstances in which purchased service credit may be considered in determining the number of years of service of a member who has a family medical emergency.*

2. Any member of the Judicial Retirement Plan who has the years of creditable service necessary to retire, but has not attained the required age, if any, may retire at any age with a benefit actuarially reduced to the required retirement age. Except as otherwise required as a result of NRS 1A.410, a retirement benefit pursuant to this subsection must be reduced by 4 percent of the unmodified benefit for each full year that the member is under the appropriate retirement age, and an additional 0.33 percent for each additional month that the member is under the appropriate retirement age. Any option selected pursuant to this subsection must be reduced by an amount proportionate to the reduction provided in this subsection for the unmodified benefit. The Board may adjust the actuarial reduction based upon an experience study of the System and recommendation by the actuary.

Sec. 21. NRS 1A.400 is hereby amended to read as follows:

1A.400 Notwithstanding any other provision of law, the amount of compensation used to determine the retirement benefit of a member of the Judicial Retirement Plan must not exceed *:*

1. If the member has an effective date of membership before July 1, 2015, the limitation provided by section 401(a)(17) of the Internal Revenue Code, 26 U.S.C. § 401(a)(17).

2. If the member has an effective date of membership on or after July 1, 2015, the lesser of:

(a) The limitation provided by section 401(a)(17) of the Internal Revenue Code, 26 U.S.C. § 401(a)(17); or

(b) Two hundred thousand dollars. The limitation set forth in this paragraph must be adjusted by the Board every year by an amount equal to the average percentage increase in the Consumer Price Index (All Items) for the immediately preceding 3-year period.

Sec. 22. NRS 1A.440 is hereby amended to read as follows:

1A.440 Except as otherwise required as a result of NRS 1A.400 or 1A.410:

1. Except as otherwise provided in this subsection, a monthly service retirement allowance must be determined by multiplying a member of the Judicial Retirement Plan's average compensation ~~[by]~~ *:*

(a) If the member has an effective date of membership before July 1, 2015, by 3.4091 percent for each year of service, except that a member of the Plan is entitled to a benefit of not more than 75 percent of the member's average compensation.

(b) If the member has an effective date of membership on or after July 1, 2015, by 3.1591 percent for each year of service, except that a member of the Plan is entitled to a benefit of not more than 75 percent of the member's average compensation.

2. For the purposes of this section, "average compensation" means the average of a member of the Plan's 36 consecutive months of highest compensation as certified by the Court Administrator if the member is a justice of the Supreme Court, a judge of the Court of Appeals or a district judge, by the county if the member is a justice of the peace or by the city if the member is a municipal judge.

Sec. 23. NRS 1A.530 is hereby amended to read as follows:

1A.530 As used in NRS 1A.530 to 1A.670, inclusive, *and sections 14 , ~~[and]~~ 16 and 16.5 of this act,* unless the context otherwise requires, the words and terms defined in NRS 1A.540, 1A.550 and 1A.560 *and section 14 of this act* have the meanings ascribed to them in those sections.

Sec. 24. NRS 1A.560 is hereby amended to read as follows:

1A.560 "Spouse" means the surviving husband *,* ~~[or]~~ wife *or domestic partner* of a deceased member of the Judicial Retirement Plan.

Sec. 25. Chapter 218C of NRS is hereby amended by adding thereto the provisions set forth as sections 26 , ~~[and]~~ 27 and 27.5 of this act.

Sec. 26. *1. Except as otherwise provided in subsections 2 and 3, a Legislator who is a member of the Legislators' Retirement System who is convicted of or pleads guilty or nolo contendere to any felony involving:*

(a) Accepting or giving, or offering to give, any bribe;

(b) Embezzlement of public money;

(c) Extortion or theft of public money;

(d) Perjury; or

(e) Conspiracy to commit any crime set forth in paragraphs (a) to (d), inclusive,

➥ and arising directly out of his or her duties in legislative service, forfeits all rights and benefits under the System.

2. Upon a conviction described in subsection 1, the Legislators' Retirement System must return to the member, without interest, all contributions which the member has made and which were credited to the member's individual account.

3. The provisions of subsections 1 and 2 apply only to Legislators who become members of the Legislators' Retirement System on or after July 1, 2015.

Sec. 27. *1. The spouse of a Legislator who is a member of the Legislators' Retirement System killed in the course of legislative service is entitled to receive a monthly allowance equivalent to the greater of:*

(a) Fifty percent of the salary of the member on the date of the member's death; or

(b) One hundred percent of the retirement allowance that the member was eligible to receive based on the member's years of service obtained before the member's death without any reduction for age for the deceased member.

2. The benefits provided by this section must be paid to the spouse for the remainder of the spouse's life.

3. The spouse may elect to receive the benefits by any one of the following only:

(a) This section; or

(b) NRS 218C.580.

4. For the purposes of this section, the Board shall define by regulation "killed in the course of legislative service."

5. As used in this section:

(a) "Domestic partner" means a person who is in a domestic partnership which is registered pursuant to chapter 122A of NRS and which has not been terminated pursuant to that chapter.

(b) "Spouse" means the surviving husband, wife or domestic partner of a Legislator killed in the course of legislative service.

Sec. 27.5. 1. If a Legislator who is a member of the Legislators' Retirement System is killed in the course of legislative service and does not have at the time of his or her death a spouse, as that term is defined in section 27 of this act, the survivor of the member is entitled to receive a monthly allowance equivalent to the greater of:

(a) Fifty percent of the salary of the member on the date of the member's death; or

(b) One hundred percent of the retirement allowance that the member was eligible to receive based on the member's years of service obtained before the member's death without any reduction for age for the deceased member.

2. The benefits provided by this section must be paid to the survivor for the remainder of his or her life.

3. The survivor may elect to receive the benefits provided by any one of the following only:

(a) This section; or

(b) NRS 218C.580.

4. For the purposes of this section, the Board shall define by regulation "killed in the course of legislative service."

Sec. 28. NRS 218C.450 is hereby amended to read as follows:

218C.450 1. The minimum requirement for retirement is *:*

(a) For a Legislator who has an effective date of membership before July 1, 2015, 10 years of accredited service ~~[.]~~ *; and*

(b) For a Legislator who has an effective date of membership on or after July 1, 2015, 10 years of service. For the purposes of this paragraph, any year or part of a year of service purchased by a Legislator pursuant to NRS 218C.370 must not be considered in determining the number of years of service of the Legislator ~~[.]~~ unless the Legislator has a family medical emergency. For the purposes of this paragraph, the Board shall define by regulation "family medical emergency" and set forth by regulation the circumstances in which purchased service credit may be considered in determining the number of years of service of a Legislator who has a family medical emergency.

➥ A lapse in service as a Legislator does not operate to forfeit any retirement rights accrued before the lapse.

2. A Legislator who meets ~~[this requirement]~~ *the requirements of subsection 1* may retire:

(a) At the age of 60 years or older with a full allowance.

(b) At any age less than 60 years with an allowance or benefit actuarially reduced to the age of 60 years. Except as otherwise required as a result of NRS 218C.340, an allowance or benefit under this paragraph must be reduced by 6 percent of the unmodified amount for each full year that the member is under the age of 60 years, and an additional 0.5 percent for each additional month that the member is under the age of 60 years. Any option selected must be reduced by an amount proportionate to the reduction provided in this subsection for the unmodified allowance or benefit. The Board may adjust the actuarial reduction based upon an experience study of the System and recommendation by the actuary.

Sec. 29. NRS 218C.530 is hereby amended to read as follows:

218C.530 Notwithstanding any other provision of law, the amount of compensation used to determine the retirement benefit of a member of the Legislators' Retirement System must not exceed *:*

1. If the member has an effective date of membership before July 1, 2015, the limitation provided by section 401(a)(17) of the Internal Revenue Code, 26 U.S.C. § 401(a)(17).

2. If the member has an effective date of membership on or after July 1, 2015, the lesser of:

(a) The limitation provided by section 401(a)(17) of the Internal Revenue Code, 26 U.S.C. § 401(a)(17); or

(b) Two hundred thousand dollars. The limitation set forth in this paragraph must be adjusted by the Board every year by an amount equal to the average percentage increase in the Consumer Price Index (All Items) for the immediately preceding 3-year period.

Sec. 29.3. NRS 218C.580 is hereby amended to read as follows:

218C.580 1. The provisions of NRS 286.671 to 286.679, inclusive, *and sections 4 and 4.5 of this act,* except NRS 286.6775, relating to benefits for survivors pursuant to the Public Employees' Retirement System, are applicable to the dependents of a Legislator who is a member of the Legislators' Retirement System, and the benefits for the survivors must be paid by the Board following the death of the Legislator to the persons entitled thereto from the Legislators' Retirement Fund.

2. It is declared that of the contributions required by subsections 1 and 2 of NRS 218C.390, one-half of 1 percent must be regarded as costs incurred in benefits for survivors.

Sec. 29.6. Section 8 of chapter 346, Statutes of Nevada 2009, at page 1550, is hereby amended to read as follows:

Sec. 8. ~~[1.]~~ This section and sections 1 to 6, inclusive, of this act become effective upon passage and approval.

~~[2. Section 7 of this act becomes effective on June 30, 2015.]~~

Sec. 29.8. Section 7 of chapter 346, Statutes of Nevada 2009, at page 1550, is hereby repealed.

Sec. 30. 1. This section and sections 29.6 and 29.8 of this act become effective upon passage and approval.

2. Sections 1 to 29.3, inclusive, of this act ~~[becomes]~~ become effective on July 1, 2015.

TEXT OF REPEALED SECTION

Section 7 of chapter 346, Statutes of Nevada 2009:

Sec. 7. NRS 286.523 is hereby repealed.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

This amendment to Senate Bill No. 406 narrows the scope of the provisions that certain members of public retirement systems who are convicted of or plead guilty or nolo contendere to certain felonies forfeit, with limited exceptions, all rights and benefits under the relevant system to certain felonies arising directly out of his or her duties as an employee.

The bill provides an additional benefit option for the spouse of a member who is killed in the line of duty, the course of employment, the course of judicial service or the course of legislative service, as applicable, and this amendment makes that option available to a survivor beneficiary if the deceased member is unmarried on the date of the member's death.

The amendment provides an exception to the bill's provision that the purchase of service credit cannot be used to reduce the number of years of service a member of each respective retirement system must earn to retire with unreduced benefit for a member who has a family medical emergency.

Finally, the amendment removes the sunset of certain provisions relating to retired public employees who fill positions for which there are critical labor shortages, as that provision was due to expire on June 30, 2015.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 427.

Bill read second time and ordered to third reading.

Senate Bill No. 433.

Bill read second time.

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

Motion carried.

Senate in recess at 1:15 p.m.

SENATE IN SESSION

At 1:16 p.m.

President Hutchison presiding.

Quorum present.

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

Amendment No. 443.

SUMMARY—Revises provisions relating to elections. (BDR 24-1145)

AN ACT relating to elections; requiring ~~[the]~~ each county ~~[clerk]~~ and city clerk to publish the voter turnout for each day of early voting ~~[by]~~ before midnight ~~[of]~~ at the ~~[following]~~ end of the day; prohibiting an election board officer from displaying a political preference or party allegiance while ~~[serving;]~~ performing his or her official duties; revising provisions governing early voting; requiring ~~[the]~~ each county ~~[clerk]~~ and city clerk to use certain criteria in determining polling places for early voting; revising the hours and days for early voting; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each county ~~[clerk or]~~ and city clerk to appoint registered voters to act as election board officers. (NRS 293.217, 293C.220) Sections 2 and 9 of this bill prohibit such election board officers from displaying any political preference or party allegiance while ~~[serving]~~ performing their official duties as election board officers.

Existing law ~~[requires]~~ regulates the process of how each county ~~[clerk]~~ and city clerk ~~[to provide criteria to be used to select]~~ selects and operates permanent and temporary polling places for early voting by personal appearance. (NRS ~~[293.3561, 293C.3561) Sections 3 and 11 of this bill require the criteria to ensure that to the extent possible: (1) such polling places are located near residential areas; and (2) a permanent or temporary polling place is located in every geographic region of the county or city, as applicable. Section 3 also requires that the number of permanent or temporary polling places for early voting by personal appearance in a county with multiple assembly districts must be equally divided among those assembly districts.]~~ 293.356-293.361, 293C.355-293C.361) Sections 1.2-5.8 and 6.2-17 of this bill make various changes to that process.

Sections ~~[1 and 6 of this bill require]~~ 1.8 and 6.8 provide that each county ~~[clerk]~~ and city clerk ~~[to publish]~~ is required before midnight ~~[of]~~ at the ~~[following]~~ end of each day of early voting to: (1) publish the number of persons who voted in the county or city, as applicable, during ~~[each]~~ that day of early voting ~~[.]~~ ; and (2) if the county or city clerk maintains an Internet website, post that information regarding voter turnout on the Internet website.

Sections 1.4, 1.6, 2.5, 3, 6.4, 6.6, 10.5 and 11 require each county and city clerk to establish a plan for early voting which specifies the number and location of the sites selected as permanent and temporary polling places for early voting and the days and hours of operation for those sites. Sections 3 and 11 further provide that the criteria used by each county and city clerk to select the number and location of the polling places must give all voters an equal opportunity to vote for the candidates of their choice and must take into consideration certain factors in determining equal opportunity. Sections 3 and 11 also allow the Secretary of State to intervene at any time and make modifications to the plan for early voting established by the county or city clerk if the Secretary of State receives credible evidence that the plan does not give all voters an equal opportunity to vote for the candidates of their choice. (NRS 293.3561, 293C.3561)

Existing law ~~[requires that]~~ establishes various days and hours of operation for a permanent polling place for early voting . ~~[be]~~ (NRS 293.3568, 293C.3568) In particular, a permanent polling place must remain open from 8 a.m. to 6 p.m. on Monday through Friday ~~[and]~~ during the first week of early voting, but during the second week of early voting, the hours of operation on those weekdays may be extended until 8 p.m. if the county or city clerk so requires. Additionally, if a federal holiday falls on one of those weekdays, the county or city clerk may require a permanent polling place to remain open on that federal holiday.

Existing law provides that on Saturdays during the period of early voting, a permanent polling place must remain open for at least 4 hours between 10 a.m. and 6 p.m. ~~[on Saturday. A]~~ , but the hours of operation on Saturdays may be extended until 8 p.m. if the county or city clerk so requires. Existing law also provides that the county ~~[clerk]~~ or city clerk ~~[is authorized to~~

~~provide for~~ may additionally require a permanent polling place to remain open ~~until 8 p.m. on a Saturday or open~~ on a Sunday ~~for~~ during the period of early voting ~~. (NRS 293.3568, 293C.3568)~~ , with such hours of operation as the county or city clerk may establish.

Sections 4 and 12 eliminate these existing provisions and provide that a permanent polling place for early voting must remain open on each day that falls within the period for early voting, including all Saturdays, Sundays and federal holidays, and must have the same hours of operation on each day from 7 a.m. until 8 p.m. which may not be extended beyond those times.

Existing law ~~also specifies~~ provides that a temporary polling place may be open during ~~any hours or days during~~ the period of early voting ~~as~~ on the days and during the hours determined by the county ~~clerk~~ or city clerk. (NRS 293.3572, 293C.3572) Sections ~~4, 5, 12~~ 5 and 13 ~~of this bill~~ provide that ~~no permanent or~~ a temporary polling place may not be open before 7 a.m. ~~,~~ or remain open after ~~7~~ 8 p.m. ~~or open on Sundays~~ during the period of early voting.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~

~~*The county clerk shall publish before*~~ the provisions set forth as sections 1.2 to 1.8, inclusive, of this act.

Sec. 1.2. As used in NRS 293.356 to 293.361, inclusive, and sections 1.2 to 1.8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.4 and 1.6 of this act have the meanings ascribed to them in those sections.

Sec. 1.4. "Early voting" means early voting by personal appearance pursuant to NRS 293.356 to 293.361, inclusive, and sections 1.2 to 1.8, inclusive, of this act.

Sec. 1.6. "Plan for early voting" means:

1. The number and location of the sites selected as permanent and temporary polling places for early voting; and

2. The days and hours of operation for those sites.

Sec. 1.8. Before midnight ~~off~~ at the ~~following~~ end of each day of early voting, the county clerk shall:

1. Publish the number of persons who voted in the county during ~~each~~ that day of early voting ~~.~~ ; and

2. If the county clerk maintains an Internet website, ~~the county clerk shall~~ post the ~~voter turnout~~ information regarding the number of persons who voted in the county during that day of early voting on the Internet website.

Sec. 2. NRS 293.217 is hereby amended to read as follows:

293.217 1. The county clerk of each county shall appoint and notify registered voters to act as election board officers for the various precincts and districts in the county as provided in NRS 293.220 to 293.243, inclusive, and

293.384. The registered voters appointed as election board officers for any precinct or district must not all be of the same political party. *An election board officer shall not display a political preference or party allegiance while ~~[serving]~~ performing his or her official duties as an election board officer ~~[.]~~ , including, without limitation, while the election board officer is inside or outside any polling place in the county or any other location where the election board officer performs his or her official duties.* No candidate for nomination or election or a relative of the candidate within the second degree of consanguinity or affinity may be appointed as an election board officer. Immediately after election board officers are appointed, if requested by the county clerk, the sheriff shall:

(a) Appoint a deputy sheriff for each polling place in the county and for the central election board or the absent ballot central counting board; or

(b) Deputize as a deputy sheriff for the election an election board officer of each polling place in the county and for the central election board or the absent ballot central counting board. The deputized officer shall receive no additional compensation for services rendered as a deputy sheriff during the election for which the officer is deputized.

➥ Deputy sheriffs so appointed and deputized shall preserve order during hours of voting and attend closing of the polls.

2. The county clerk may appoint a trainee for the position of election board officer as set forth in NRS 293.2175.

Sec. 2.5. NRS 293.356 is hereby amended to read as follows:

293.356 *1.* If a request is made to vote early by a registered voter in person ~~[,]~~ *at a polling place for early voting established in the plan for early voting pursuant to NRS 293.356 to 293.361, inclusive, and sections 1.2 to 1.8, inclusive, of this act,* the election board shall issue a ballot for early voting to the voter. ~~[Such a]~~

2. Except as otherwise provided in NRS 293.304, the voter may vote the ballot ~~[must be voted]~~ *for early voting only* on the premises of ~~[a]~~ *the* polling place for early voting ~~[established pursuant to NRS 293.3564 or 293.3572.]~~ *where the ballot is issued to the voter.*

Sec. 3. NRS 293.3561 is hereby amended to read as follows:

293.3561 1. The *county clerk shall establish a plan for early voting which is subject to any modifications made by the Secretary of State pursuant to subsection 5. The number and location of the sites selected as* permanent and temporary polling places *in the plan* for early voting ~~[by personal appearance]~~ must satisfy the criteria ~~[to be]~~ used to select permanent and temporary polling places for early voting ~~[by personal appearance provided]~~ *established* by the county clerk pursuant to ~~[subsection 2.]~~ *this section.*

2. The county clerk shall ~~[:~~

~~(a) Provide]~~ *establish* by rule or regulation ~~[for]~~ the criteria ~~[to be]~~ used to select *the number and location of the* permanent and temporary polling places *in the plan* for early voting *.* ~~[by personal appearance .~~; and~~]~~ *The criteria used to select the number and location of the permanent and*

temporary polling places in the plan for early voting ~~[by personal appearance must, without limitation:~~

~~*(1) Ensure that permanent and temporary polling places are located near residential areas of the county, to the extent possible.*~~

~~*(2) Ensure that a permanent or temporary polling place is located in every geographic area of the county, to the extent possible.*~~

~~(b)]~~ *must give all voters an equal opportunity to vote for the candidates of their choice and must take into consideration all the following factors in determining equal opportunity:*

(a) The geographical diversity of the county which also must take into consideration the location of each state assembly district that is wholly or partially within the county.

(b) The density of registered voter populations within each of those assembly districts.

(c) The days and hours that each permanent and temporary polling place is open.

(d) The proximity of each permanent and temporary polling place to places of employment, public transportation and established community centers.

(e) Any other factors that the county clerk determines will promote the public purpose of:

(1) Improving voter access to permanent and temporary polling places for early voting; and

(2) Increasing voter participation and turnout in early voting.

3. The aggregate number of sites selected as permanent and temporary polling places in the plan for early voting must give all voters an equal opportunity to vote for the candidates of their choice.

4. At a meeting of the board of county commissioners, *the county clerk shall* inform the board of the *plan for early voting and the number and location of the* sites selected as permanent and temporary polling places *in the plan* for early voting . ~~[by personal appearance.~~

~~*3. The number of permanent and temporary polling places for early voting by personal appearance in a county with multiple assembly districts must be divided equally among the assembly districts.]~~

5. The Secretary of State may intervene at any time and make modifications to the plan for early voting established by the county clerk if the Secretary of State receives credible evidence that the plan for early voting does not give all voters an equal opportunity to vote for the candidates of their choice.

Sec. 3.5. NRS 293.3564 is hereby amended to read as follows:

293.3564 1. The county clerk ~~[may]~~ *shall* establish permanent polling places for early voting ~~[by personal appearance in the county]~~ at the locations selected *as permanent polling places in the plan for early voting* pursuant to NRS 293.3561.

2. Except as otherwise provided in subsection 3 ~~[,]~~ *and NRS 293.304,* any person entitled to vote early by personal appearance may do so at any polling place for early voting.

3. If it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county, the county clerk may:

(a) Provide appropriate forms of ballots for all offices within a township, city, town or county commissioner election district, as determined by the county clerk; and

(b) Limit voting at that polling place to registered voters in that township, city, town or county commissioner election district.

Sec. 4. NRS 293.3568 is hereby amended to read as follows:

293.3568 1. The period for early voting ~~[by personal appearance]~~ begins the third Saturday preceding a primary or general election and extends through the Friday before election day, *and the period for early voting must include all Saturdays,* Sundays and federal holidays ~~[excepted.~~

~~2. The county clerk may:~~

~~(a) Include *include* any Sunday or federal holiday that falls]~~ *that fall* within the period for early voting . ~~[by personal appearance.~~

~~(b) Require a permanent polling place for early voting to remain open until 8 p.m. on any Saturday that falls within the period for early voting.~~

~~3. A]~~

2. During the period for early voting, each permanent polling place for early voting ~~[must]~~ *:*

(a) Must ~~[remain]~~ *be* open ~~[:~~

~~(a) *(1)* On Monday through Friday ,:~~

~~(1) During the first week of early voting,]~~ *on each day that falls within the period for early voting, including all Saturdays, Sundays and federal holidays; and*

(b) Must have the same hours of operation on each day from ~~[8]~~ *7* a.m. until ~~[6]~~ *8* p.m.

~~[(2) During the second week of early voting, from 8 a.m. until 6 p.m., or until 8 p.m. if the county clerk so requires.~~

~~(b) *(2)* On any Saturday that falls within the period for early voting, for at least 4 hours between 10 7 a.m. and 6 7 p.m.~~

~~(c) If the county clerk includes a Sunday that falls within the period for early voting pursuant to subsection 2, during such hours as the county clerk may establish.~~

~~*(b) May remain open on Monday through Friday, from 7 a.m. until 7 p.m.*~~

~~*(c) May not open before 7 a.m. or remain open after 7 p.m.]*~~ *which may not be extended beyond those times.*

Sec. 5. NRS 293.3572 is hereby amended to read as follows:

293.3572 1. In addition to *the* permanent polling places *established in the plan* for early voting, the county clerk may establish temporary ~~[branch]~~

polling places *in the plan* for early voting which may include, without limitation, the clerk's office pursuant to NRS 293.3561.

2. The provisions of subsection ~~[3]~~ *2* of NRS 293.3568 do not apply to a temporary polling place. Voting at a temporary ~~[branch]~~ polling place may be conducted on any one or more days and during any hours within the period for early voting ~~[by personal appearance,]~~ as determined by the county clerk ~~[.]~~ *, except that a temporary polling place may not ~~:~~*

~~*(a) Open]*~~ *open before 7 a.m.*

~~*[(b) Remain open after 7 p.m.*~~

~~*(c) Open on any Sunday that falls within the period for early voting.]*~~ *or remain open after 8 p.m.*

3. The schedules for conducting voting are not required to be uniform among the temporary ~~[branch]~~ polling places.

4. The legal rights and remedies which inure to the owner or lessor of private property are not impaired or otherwise affected by the leasing of the property for use as a temporary ~~[branch]~~ polling place for early voting, except to the extent necessary to conduct early voting at that location.

Sec. 5.2. NRS 293.3576 is hereby amended to read as follows:

293.3576 1. The county clerk shall publish during the week before the period for early voting and at least once each week during the period for early voting in a newspaper of general circulation a schedule stating:

(a) The location of each permanent and temporary polling place for early voting and the election precincts served by each location.

(b) The dates and hours that early voting will be conducted at each location.

2. The county clerk shall post a copy of the schedule on the bulletin board used for posting notice of meetings of the board of county commissioners. The schedule must be posted continuously for a period beginning not later than the fifth day before the first day of the period for early voting ~~[by personal appearance]~~ and ending on the last day of that period.

3. The county clerk shall make copies of the schedule available to the public in reasonable quantities without charge during the period of posting.

4. ~~[No]~~ *Except as otherwise provided in subsection 5 of NRS 293.3561, no* additional polling places for early voting may be established after the schedule is published pursuant to this section.

Sec. 5.4. NRS 293.3583 is hereby amended to read as follows:

293.3583 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for early voting *,* ~~[by personal appearance,]~~ the election board shall, before the polls open on each day during that period:

1. Prepare each mechanical recording device for voting.

2. Ensure that each mechanical recording device will not register any ballots which were previously voted on the mechanical recording device as having been voted on that day.

Sec. 5.6. NRS 293.3585 is hereby amended to read as follows:

293.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

(a) Determine that the person is a registered voter in the county;

(b) Instruct the voter to sign the roster for early voting; and

(c) Verify the signature of the voter against that contained on the original application to register to vote or a facsimile thereof, the card issued to the voter at the time of registration or some other piece of official identification.

2. The county clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

3. The roster for early voting must contain:

(a) The voter's name, the address where he or she is registered to vote, his or her voter identification number and a place for the voter's signature;

(b) The voter's precinct or voting district number; and

(c) The date of voting early in person.

4. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the deputy clerk for early voting, the voter is entitled to receive the appropriate ballot or ballots, but only for his or her own use at the polling place for early voting.

5. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the voting receipt, if the county clerk uses voting receipts; and

(c) Allow the voter to cast a vote.

6. A ~~[voter]~~ *person* applying to vote *at a polling place for* early ~~[by personal appearance]~~ *voting* may be challenged pursuant to NRS 293.303.

Sec. 5.8. NRS 293.3604 is hereby amended to read as follows:

293.3604 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for early voting ~~[by personal appearance]~~ in an election other than a presidential preference primary election:

1. At the close of each voting day, the election board shall:

(a) Prepare and sign a statement for the polling place. The statement must include:

(1) The title of the election;

(2) The number of the precinct or voting district;

(3) The number which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;

(4) The number of ballots voted on the mechanical recording device for that day; and

(5) The number of signatures in the roster for early voting for that day.

(b) Secure:

(1) The ballots pursuant to the plan for security required by NRS 293.3594; and

(2) Each mechanical voting device in the manner prescribed by the Secretary of State pursuant to NRS 293.3594.

2. At the close of the last voting day, the county clerk shall deliver to the ballot board for early voting:

(a) The statements for all polling places for early voting;

(b) The voting rosters used for early voting;

(c) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and

(d) Any other items as determined by the county clerk.

3. Upon receipt of the items set forth in subsection 2 at the close of the last voting day, the ballot board for early voting shall:

(a) Sort the items by precinct or voting district;

(b) Count the number of ballots voted by precinct or voting district;

(c) Account for all ballots on an official statement of ballots; and

(d) Place the items in the container provided to transport those items to the central counting place and seal the container with a numbered seal. The official statement of ballots must accompany the items to the central counting place.

Sec. 6. Chapter 293C of NRS is hereby amended by adding thereto ~~[a new section to read as follows:~~

~~*The city clerk shall publish before]*~~ the provisions set forth as sections 6.2 to 6.8, inclusive, of this act.

Sec. 6.2. As used in NRS 293C.355 to 293C.361, inclusive, and sections 6.2 to 6.8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6.4 and 6.6 of this act have the meanings ascribed to them in those sections.

Sec. 6.4. "Early voting" means early voting by personal appearance pursuant to NRS 293C.355 to 293C.361, inclusive, and sections 6.2 to 6.8, inclusive, of this act.

Sec. 6.6. "Plan for early voting" means:

1. The number and location of the sites selected as permanent and temporary polling places for early voting; and

2. The days and hours of operation for those sites.

Sec. 6.8. Before midnight ~~[off]~~ at the ~~[following]~~ end of each day of early voting, the city clerk shall:

1. Publish the number of persons who voted in the city during ~~[each]~~ that day of early voting ~~[.]~~ ; and

2. If the city clerk maintains an Internet website, ~~[the city clerk shall]~~ post the information regarding the number of persons who voted in the city during that day of early voting on the Internet website.

Sec. 7. NRS 293C.110 is hereby amended to read as follows:

293C.110 1. Except as otherwise provided in subsection 2, conduct of any city election is under the control of the governing body of the city, and it

shall, by ordinance, provide for the holding of the election, appoint the necessary election officers and election boards and do all other things required to carry the election into effect.

2. Except as otherwise provided in NRS 293C.112, the governing body of the city shall provide for:

(a) Absent ballots to be voted in a city election pursuant to NRS 293C.305 to 293C.325, inclusive, and 293C.330 to 293C.340, inclusive; and

(b) The conduct of:

(1) Early voting by personal appearance in a city election pursuant to NRS 293C.355 to 293C.361, inclusive ~~[.]~~ *, and ~~[section 6]~~ sections 6.2 to 6.8, inclusive, of this act;*

(2) Voting by absent ballot in person in a city election pursuant to NRS 8293C.327; or

(3) Both early voting by personal appearance as described in subparagraph (1) and voting by absent ballot in person as described in subparagraph (2).

Sec. 8. NRS 293C.112 is hereby amended to read as follows:

293C.112 1. The governing body of a city may conduct a city election in which all ballots must be cast by mail if:

(a) The election is a special election; or

(b) The election is a primary city election or general city election in which the ballot includes only:

(1) Offices and ballot questions that may be voted on by the registered voters of only one ward; or

(2) One office or ballot question.

2. The provisions of NRS 293C.265 to 293C.302, inclusive, 293C.305 to 293C.340, inclusive, and 293C.355 to 293C.361, inclusive, *and ~~[section 6]~~ sections 6.2 to 6.8, inclusive, of this act* do not apply to an election conducted pursuant to this section.

3. For the purposes of an election conducted pursuant to this section, each precinct in the city shall be deemed to have been designated a mailing precinct pursuant to NRS 293C.342.

Sec. 9. NRS 293C.220 is hereby amended to read as follows:

293C.220 1. The city clerk shall appoint and notify registered voters to act as election board officers for the various precincts and districts in the city as provided in NRS 293.225, 293.227, 293C.227 to 293C.245, inclusive, and 293C.382. *An election board officer shall not display a political preference or party allegiance while ~~[serving]~~ performing his or her official duties as an election board officer ~~[.]~~ , including, without limitation, while the election board officer is inside or outside any polling place in the city or any other location where the election board officer performs his or her official duties.* No candidate for nomination or election or a relative of the candidate within the second degree of consanguinity or affinity may be appointed as an election board officer. Immediately after election board officers are

appointed, if requested by the city clerk, the chief law enforcement officer of the city shall:

(a) Appoint an officer for each polling place in the city and for the central election board or the absent ballot central counting board; or

(b) Deputize, as an officer for the election, an election board officer for each polling place and for the central election board or the absent ballot central counting board. The deputized officer may not receive any additional compensation for the services he or she provides as an officer during the election for which the officer is deputized.

➥ Officers so appointed and deputized shall preserve order during hours of voting and attend the closing of the polls.

2. The city clerk may appoint a trainee for the position of election board officer as set forth in NRS 293C.222.

Sec. 10. NRS 293C.355 is hereby amended to read as follows:

293C.355 The provisions of NRS 293C.355 to 293C.361, inclusive, *and ~~[section 6]~~ sections 6.2 to 6.8, inclusive, of this act* apply to a city only if the governing body of the city has provided for early voting ~~[by personal appearance]~~ pursuant to paragraph (b) of subsection 2 of NRS 293C.110.

Sec. 10.5. NRS 293C.356 is hereby amended to read as follows:

293C.356 1. If a request is made to vote early by a registered voter in person ~~[,]~~ *at a polling place for early voting established in the plan for early voting pursuant to NRS 293C.355 to 293C.361, inclusive, and sections 6.2 to 6.8, inclusive, of this act,* the city clerk shall issue a ballot for early voting to the voter. ~~[Such a]~~

2. Except as otherwise provided in NRS 293C.295, the voter may vote the ballot ~~[must be voted]~~ *only* on the premises of the ~~[clerk's office and returned to the clerk.~~

~~2. On]~~ *polling place for early voting where the ballot is issued to the voter.*

3. In addition to the polling places for early voting established in the plan for early voting pursuant to NRS 293C.355 to 293C.361, inclusive, and sections 6.2 to 6.8, inclusive, of this act, on all the dates for early voting prescribed in NRS 293C.3568, ~~[each]~~ *the* city clerk shall provide a voting booth, with suitable equipment for voting, on the premises of the city clerk's office for use by registered voters who are issued ballots for early voting in accordance with this section.

Sec. 11. NRS 293C.3561 is hereby amended to read as follows:

293C.3561 1. The *city clerk shall establish a plan for early voting which is subject to any modifications made by the Secretary of State pursuant to subsection 5. The number and location of the sites selected as* permanent and temporary polling places for early voting ~~[by personal appearance]~~ must satisfy the criteria ~~[to be]~~ used to select permanent and temporary polling places for early voting ~~[by personal appearance provided]~~ *established* by the city clerk pursuant to ~~[subsection 2.]~~ *this section.*

2. The city clerk shall ~~[:~~

~~(a) Provide~~] *establish* by rule or regulation ~~[for]~~ the criteria ~~[to be]~~ used to select *the number and location of the* permanent and temporary polling places *in the plan* for early voting . ~~[by personal appearance :; and]~~ *The criteria used to select the number and location of the permanent and temporary polling places in the plan for early voting ~~[by personal appearance must, without limitation:~~*

~~*(1) Ensure that permanent and temporary polling places are located near residential areas of the city, to the extent possible.*~~

~~*(2) Ensure that a permanent or temporary polling place is located in every geographic area of the city, to the extent possible.*~~

~~(b)]~~ *must give all voters an equal opportunity to vote for the candidates of their choice and must take into consideration all the following factors in determining equal opportunity:*

(a) The geographical diversity of the city which also must take into consideration the location of each state assembly district that is wholly or partially within the city.

(b) The density of registered voter populations within each of those assembly districts.

(c) The days and hours that each permanent and temporary polling place is open.

(d) The proximity of each permanent and temporary polling place to places of employment, public transportation and established community centers.

(e) Any other factors that the city clerk determines will promote the public purpose of:

(1) Improving voter access to permanent and temporary polling places for early voting; and

(2) Increasing voter participation and turnout in early voting.

3. The aggregate number of sites selected as permanent and temporary polling places in the plan for early voting must give all voters an equal opportunity to vote for the candidates of their choice.

4. At a meeting of the city council or other governing body of the city, *the city clerk shall* inform the city council or other governing body of the *plan for early voting and the number and location of the* sites selected as permanent and temporary polling places *in the plan* for early voting . ~~[by personal appearance.~~

~~*3. The number of permanent and temporary polling places for early voting by personal appearance in a city with multiple assembly districts must be divided equally among the assembly districts.]~~

5. The Secretary of State may intervene at any time and make modifications to the plan for early voting established by the city clerk if the Secretary of State receives credible evidence that the plan for early voting does not give all voters an equal opportunity to vote for the candidates of their choice.

Sec. 11.5. NRS 293C.3564 is hereby amended to read as follows:

293C.3564 1. The city clerk ~~[may]~~ *shall* establish permanent polling places for early voting ~~[by personal appearance in the city]~~ at the locations selected *as permanent polling places in the plan for early voting* pursuant to NRS 293C.3561.

2. ~~[Any]~~ *Except as otherwise provided in NRS 293C.295, any* person entitled to vote early by personal appearance may do so at any polling place for early voting.

Sec. 12. NRS 293C.3568 is hereby amended to read as follows:

293C.3568 1. The period for early voting ~~[by personal appearance]~~ begins the third Saturday preceding a primary city election or general city election ~~[,]~~ and extends through the Friday before election day, *and the period for early voting must include all Saturdays,* Sundays and federal holidays ~~[excepted.~~

~~2. The city clerk may:~~

~~(a) Include *include* any Sunday or federal holiday that falls]~~ *that fall* within the period for early voting . ~~[by personal appearance.~~

~~(b) Require a permanent polling place for early voting to remain open until 8 p.m. on any Saturday that falls within the period for early voting.~~

~~3. A]~~

2. During the period for early voting, each permanent polling place for early voting ~~[must]~~ *:*

(a) Must ~~[remain]~~ *be* open ~~[:~~

~~(a) *(1)* On Monday through Friday ,~~ :

~~(1) During the first week of early voting,]~~ *on each day that falls within the period for early voting, including all Saturdays, Sundays and federal holidays; and*

(b) Must have the same hours of operation on each day from ~~[8]~~ *7* a.m. until ~~[6]~~ *8* p.m.

~~[(2) During the second week of early voting, from 8 a.m. until 6 p.m., or until 8 p.m. if the city clerk so requires.~~

~~(b) *(2)* On any Saturday that falls within the period for early voting, for at least 4 hours between 10 7 a.m. and 6 7 p.m.~~

~~(c) If the city clerk includes a Sunday that falls within the period for early voting pursuant to subsection 2, during such hours as the city clerk may establish.~~

~~*(b) May remain open on Monday through Friday, from 7 a.m. until 7 p.m.*~~

~~*(c) May not open before 7 a.m. or remain open after 7 p.m.]*~~ *which may not be extended beyond those times.*

Sec. 13. NRS 293C.3572 is hereby amended to read as follows:

293C.3572 1. In addition to *the* permanent polling places *established in the plan* for early voting, the city clerk may establish temporary ~~[branch]~~ polling places *in the plan* for early voting pursuant to NRS 293C.3561.

2. The provisions of subsection ~~[3]~~ *2* of NRS 293C.3568 do not apply to a temporary polling place. Voting at a temporary ~~[branch]~~ polling place may be conducted on any one or more days and during any hours within the

period for early voting ~~[by personal appearance,]~~ as determined by the city clerk ~~[.]~~ *, except that ~~[,]~~ a temporary polling place may not ~~[:~~

~~(a) Open]~~ *open before 7 a.m.*

~~[(b) Remain open after 7 p.m.~~

~~(c) Open on any Sunday during the period for early voting.]~~ *or remain open after 8 p.m.*

3. The schedules for conducting voting are not required to be uniform among the temporary ~~[branch]~~ polling places.

4. The legal rights and remedies which inure to the owner or lessor of private property are not impaired or otherwise affected by the leasing of the property for use as a temporary ~~[branch]~~ polling place for early voting, except to the extent necessary to conduct early voting at that location.

Sec. 14. NRS 293C.3576 is hereby amended to read as follows:

293C.3576 1. The city clerk shall publish during the week before the period for early voting and at least once each week during the period for early voting in a newspaper of general circulation a schedule stating:

(a) The location of each permanent and temporary polling place for early voting and the election precincts served by each location.

(b) The dates and hours that early voting will be conducted at each location.

2. The city clerk shall post a copy of the schedule on the bulletin board used for posting notice of the meetings of the city council ~~[.]~~ *or other governing body of the city.* The schedule must be posted continuously for a period beginning not later than the fifth day before the first day of the period for early voting ~~[by personal appearance]~~ and ending on the last day of that period.

3. The city clerk shall make copies of the schedule available to the public in reasonable quantities without charge during the period of posting.

4. ~~[No]~~ *Except as otherwise provided in subsection 5 of NRS 293C.3561, no* additional polling places for early voting may be established after the schedule is published pursuant to this section.

Sec. 15. NRS 293C.3583 is hereby amended to read as follows:

293C.3583 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for early voting *,* ~~[by personal appearance,]~~ the election board shall, before the polls open on each day during that period:

1. Prepare each mechanical recording device for voting.

2. Ensure that each mechanical recording device will not register any ballots which were previously voted on the mechanical recording device as having been voted on that day.

Sec. 16. NRS 293C.3585 is hereby amended to read as follows:

293C.3585 1. Upon the appearance of a person to cast a ballot for early voting, the deputy clerk for early voting shall:

(a) Determine that the person is a registered voter in the county;

(b) Instruct the voter to sign the roster for early voting; and

(c) Verify the signature of the voter against that contained on the original application to register to vote or a facsimile thereof, the card issued to the voter at the time of registration or some other piece of official identification.

2. The city clerk shall prescribe a procedure, approved by the Secretary of State, to determine that the voter has not already voted pursuant to this section.

3. The roster for early voting must contain:

(a) The voter's name, the address where he or she is registered to vote, his or her voter identification number and a place for the voter's signature;

(b) The voter's precinct or voting district number; and

(c) The date of voting early in person.

4. When a voter is entitled to cast a ballot and has identified himself or herself to the satisfaction of the deputy clerk for early voting, the voter is entitled to receive the appropriate ballot or ballots, but only for his or her own use at the polling place for early voting.

5. If the ballot is voted on a mechanical recording device which directly records the votes electronically, the deputy clerk for early voting shall:

(a) Prepare the mechanical recording device for the voter;

(b) Ensure that the voter's precinct or voting district and the form of ballot are indicated on the voting receipt, if the city clerk uses voting receipts; and

(c) Allow the voter to cast a vote.

6. A ~~[voter]~~ *person* applying to vote *at a polling place for* early ~~[by personal appearance]~~ *voting* may be challenged pursuant to NRS 293C.292.

Sec. 17. NRS 293C.3604 is hereby amended to read as follows:

293C.3604 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for early voting ~~[by personal appearance]~~ in an election other than a presidential preference primary election:

1. At the close of each voting day, the election board shall:

(a) Prepare and sign a statement for the polling place. The statement must include:

(1) The title of the election;

(2) The number of the precinct or voting district;

(3) The number which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;

(4) The number of ballots voted on the mechanical recording device for that day; and

(5) The number of signatures in the roster for early voting for that day.

(b) Secure:

(1) The ballots pursuant to the plan for security required by NRS 293C.3594; and

(2) Each mechanical voting device in the manner prescribed by the Secretary of State pursuant to NRS 293C.3594.

2. At the close of the last voting day, the city clerk shall deliver to the ballot board for early voting:

(a) The statements for all polling places for early voting;

(b) The voting rosters used for early voting;

(c) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and

(d) Any other items as determined by the city clerk.

3. Upon receipt of the items set forth in subsection 2 at the close of the last voting day, the ballot board for early voting shall:

(a) Sort the items by precinct or voting district;

(b) Count the number of ballots voted by precinct or voting district;

(c) Account for all ballots on an official statement of ballots; and

(d) Place the items in the container provided to transport those items to the central counting place and seal the container with a number seal. The official statement of ballots must accompany the items to the central counting place.

Sec. 18. This act becomes effective 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 on July 1, 2015, for all other purposes.

Senator Brower moved the adoption of the amendment.

Remarks by Senators Brower and Segerblom.

SENATOR BROWER:

This amendment to Senate Bill No. 433 does a few things. First, it clarifies the language which prohibits an election board officer from displaying a political preference or party allegiance while serving as an election board officer, to ensure that this prohibition applies to the election board officer only while performing his or her duties as an election board officer.

Secondly, it requires a county clerk to establish a plan for voting which is subject to modification by the State's chief elections officer.

Third, adds language specifying the criteria for selecting early voting locations must give all voters an equal opportunity to vote.

Fourth, it allows the Secretary of State to intervene and make modifications to a plan for early voting, if he or she receives credible evidence that the plan does not provide an equal opportunity for all voters to vote for the candidates of their choice.

Finally, it clarifies that permanent early voting locations must be open on every day that falls within the period for early voting, including all Saturdays, Sundays and federal holidays, and that such locations must be open from 7 a.m. to 8 p.m.

SENATOR SEGERBLOM:

I am opposed to this amendment for one reason. Part of it provides uniformity to the opening of the polling places but instead of adapting the rest of the State to Clark County where we have 75 percent of the population, it modifies Clark County to fit the rest of the State. It reduces the hours polls are open from 9 p.m. to 8 p.m., which is losing a full hour of early voting we are used to in southern Nevada. If we are going to make uniformity, we ought to make the rest of the State uniform with 75 percent of the population not pick on the 75 percent and reduce our hours. Everyone in Las Vegas is used to voting late in the shopping malls. By reducing it by an hour, it adversely impacts those of us from southern Nevada. Therefore I am going to oppose the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 469.

Bill read second time and ordered to third reading.

Senate Bill No. 481.

Bill read second time.

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

Amendment No. 477.

SUMMARY— ~~[Prescribes certain requirements relating to the receipt, maintenance and disclosure by a county or incorporated city of certain information of a public utility.]~~ Revises provisions relating to counties and cities. (BDR 20-1114)

AN ACT relating to local governments; prohibiting a county or incorporated city from ~~[requiring a public utility to provide to the county or city information relating to]~~ creating, maintaining or displaying in any format a comprehensive model or map of the physical location of all or a substantial portion of the facilities or critical infrastructure of ~~[the]~~ a public utility ~~[unless the county or city demonstrates to the utility a compelling need for the information and that the county or city will maintain the information securely and confidentially; prohibiting]~~ , public water system or video service provider; authorizing a county or city ~~[from requiring certain information to be submitted in a digital format or from digitizing such information for certain purposes; providing that such information is not a public record and that the information is subject to disclosure by a county or city only under certain circumstances; providing for the indemnification of the public utility by a county or city for any damages, loss or other harm as the result of the improper disclosure of such information by the county or city;]~~ to require a public utility, public water system, video service provider or any other person to disclose information relating to the physical location of the facilities or critical infrastructure of a public utility, public water system or video service provider only under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill prohibits a county and incorporated city, respectively, from ~~[requiring a public utility to provide to the county or city information relating to]~~ creating, maintaining or displaying in any format, including, without limitation, a digital or electronic format, a comprehensive model or map of the location of all or a substantial portion of the facilities or critical infrastructure of ~~[the]~~ a public utility ~~[unless the county or city demonstrates to the satisfaction of the utility that the county or city has a compelling need for the information and that the county or city will maintain the information securely and confidentially.]~~ , public water system or video service provider. This bill further ~~[prohibits]~~ authorizes a county or city ~~[from: (1) requiring such information to be submitted in a digital format; and (2) digitizing any document provided by a public utility or any information contained therein~~

~~for the purpose of digitally mapping or creating a digital model of the location of the facilities and critical infrastructure of the utility. This bill provides that such information provided to a county or city by a public utility is not a public record and, with certain exceptions, is privileged and confidential. This bill authorizes the disclosure by a county or city of such information: (1) to certain persons or entities that may need access to the information in relation to the compelling need for which the information was provided to the county or city; (2) to a law enforcement agency; (3) upon the order of a court; and (4) pursuant to any other provision of state or federal law specifically requiring the disclosure of the information. This bill provides for the indemnification of the public utility by a county or city for any damages, loss or other harm as the result of the improper disclosure of such information by the county or city.]~~ to require a public utility, public water system or video service provider or any other person to provide information to the county or city relating to the physical location of the facilities or critical infrastructure of the public utility, public water system or video service provider pursuant to certain agreements executed between the public utility, public water system, video service provider or person and the county or city, respectively.

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A county, including, without limitation, any board, planning agency or other political subdivision of the county, shall not ~~[:~~

~~*(a) Require a public utility to provide to the county any information relating to the physical location of the facilities or critical infrastructure of the public utility unless the county can demonstrate to the satisfaction of the public utility that:*~~

~~*(1) The county has a compelling need for the information; and*~~

~~*(2) The information provided by the public utility will be maintained securely and confidentially.*~~

~~*(b) Require a public utility to provide to any person or governmental entity, including, without limitation, the county, any information relating to the physical location of the facilities or critical infrastructure of the public utility in a digital format.*~~

~~*(c) Digitize any documents provided to the county by a public utility or any information contained therein for the purposes of digitally mapping or creating a digital model of the location of the facilities or critical infrastructure of the public utility.*~~

~~*2. If a public utility, at the request of a county, provides any information to the county relating to the physical location of the facilities or critical infrastructure of the public utility:*~~

~~*(a) The information is not a public record and, except as otherwise provided in paragraph (b), the information is privileged and confidential information and must not be disclosed to any person.*~~

~~*(b) The information may be disclosed only:*~~

~~*(1) To an officer or employee of the county or a state agency, or to an independent contractor under contract with the county or a state agency, for the purpose of using the information in accordance with the specific compelling need for which the information was requested;*~~

~~*(2) To a law enforcement agency;*~~

~~*(3) Upon the order of a court of competent jurisdiction; or*~~

~~*(4) Pursuant to any other provision of state or federal law which specifically requires the disclosure of such information.*~~

~~*3. The county shall indemnify the public utility against any damages, loss or other harm suffered by the public utility that is caused by or the direct result of the disclosure of any information in a manner not authorized pursuant to this section.*~~

~~*4.*~~ *create, maintain or display in any format, including, without limitation, a digital or electronic format, a comprehensive model or map of the physical location of all or a substantial portion of the facilities or critical infrastructure of a public utility, public water system or video service provider.*

2. A county, including, without limitation, any board, planning agency or other political subdivision of the county, may require a public utility, public water system, video service provider or other person to provide information about the physical location of the facilities or critical infrastructure of the public utility, public water system or video service provider only pursuant to a franchise, right-of-way or similar occupancy agreement entered into with the public utility, public water system, video service provider or other person.

3. As used in this section:

(a) "Critical infrastructure" means any asset of a public utility , public water system or video service provider that is essential for the operation of the public utility ~~[.]~~ , public water system or video service provider, as applicable.

(b) "Public utility" has the meaning ascribed to it in NRS 704.020.

(c) "Public water system" has the meaning ascribed to it in NRS 445A.235.

(d) "Video service provider" has the meaning ascribed to it in NRS 711.151.

Sec. 2. [NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251,

90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655, 598.0964, 598A.110, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152,

679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, ~~*and sections 1 and 3 of this act,*~~ sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.] (Deleted by amendment.)

Sec. 3. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An incorporated city, including, without limitation, any board, planning agency or other political subdivision of the city, shall not ~~*:*~~

~~*(a) Require a public utility to provide to the city any information relating to the physical location of the facilities or critical infrastructure of the public utility unless the city can demonstrate to the satisfaction of the public utility that:*~~

~~*(1) The city has a compelling need for the information; and*~~

~~*(2) The information provided by the public utility will be maintained securely and confidentially.*~~

~~*(b) Require a public utility to provide to any person or governmental entity, including, without limitation, the city, any information relating to the physical location of the facilities or critical infrastructure of the public utility in a digital format.*~~

~~*(c) Digitize any documents provided to the city by a public utility or any information contained therein for the purposes of digitally mapping or creating a digital model of the location of the facilities or critical infrastructure of the public utility.*~~

~~*2. If a public utility, at the request of an incorporated city, provides any information to the city relating to the physical location of the facilities or critical infrastructure of the public utility:*~~

~~*(a) The information is not a public record and, except as otherwise provided in paragraph (b), the information is privileged and confidential information and must not be disclosed to any person.*~~

~~*(b) The information may be disclosed only:*~~

~~*(1) To an officer or employee of the city or a state agency, or to an independent contractor under contract with the city or a state agency, for the purpose of using the information in accordance with the specific compelling need for which the information was requested;*~~

~~*(2) To a law enforcement agency;*~~

~~*(3) Upon the order of a court of competent jurisdiction; or*~~

~~*(4) Pursuant to any other provision of state or federal law which specifically requires the disclosure of such information.*~~

~~*3. The city shall indemnify the public utility against any damages, loss or other harm suffered by the public utility that is caused by or the direct result of the disclosure of any information in a manner not authorized pursuant to this section.*~~

~~4.~~ *create, maintain or display in any format, including, without limitation, a digital or electronic format, a comprehensive model or map of the physical location of all or a substantial portion of the facilities or critical infrastructure of a public utility, public water system or video service provider.*

2. An incorporated city, including, without limitation, any board, planning agency or other political subdivision of the city, may require a public utility, public water system, video service provider or other person to provide information about the physical location of the facilities or critical infrastructure of the public utility, public water system or video service provider only pursuant to a franchise, right-of-way or similar occupancy agreement entered into with the public utility, public water system, video service provider or other person.

3. As used in this section:

(a) "Critical infrastructure" means any asset of a public utility , public water system or video service provider that is essential for the operation of the public utility ~~[.]~~ , public water system or video service provider, as applicable.

(b) "Public utility" has the meaning ascribed to it in NRS 704.020.

(c) "Public water system" has the meaning ascribed to it in NRS 445A.235.

(d) "Video service provider" has the meaning ascribed to it in NRS 711.151.

Sec. 4. This act becomes effective ~~[upon passage and approval.]~~ on July 1, 2015.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

The amendment deletes most of the bill, as testimony indicated the intent was not to add certain documents to the list of confidential records in State law but to facilitate the use of the information in a more secure manner. The bill is amended to prohibit a county or incorporated city from creating, maintaining or displaying in any format a comprehensive model or map of the physical location of all or a substantial portion of the facilities or critical infrastructure of a public utility, public water system or video service provider; authorizing a county or city to require a public utility, public water system, video service provider or any other person to disclose information relating to the physical location of the facilities or critical infrastructure of a public utility, public water system or video service provider only under certain circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 488.

Bill read second time.

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

Amendment No. 343.

SUMMARY— ~~[Requires]~~ Authorizes the State Department of Agriculture to establish a program for the registration of veterinary biologic products sold in Nevada. (BDR 50-1164)

AN ACT relating to animals; ~~[requiring]~~ authorizing the State Department of Agriculture to establish by regulation requirements for the registration of certain animal remedies, veterinary biologics and pharmaceuticals for veterinary purposes with the State Department of Agriculture; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~[requires]~~ authorizes the State Department of Agriculture to establish, by regulation, a program to carry out federal regulations concerning certain animal remedies, veterinary biologics and pharmaceuticals for veterinary purposes. Section 8 of this bill requires the regulations to provide that any person wishing to sell certain animal remedies, veterinary biologics and pharmaceuticals for veterinary purposes ~~[to]~~ must register such products with the ~~[State]~~ Department . ~~[of~~

~~Agriculture.]~~ Section 8 ~~[of this bill exempts products already registered pursuant to the Nevada Pesticides Act (NRS 586.010-586.450) or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §§ 136 et seq.), from the provisions of this bill. Section 9 of this bill establishes]~~ also requires the regulations to provide for: (1) certain application requirements for the registration of animal remedies, veterinary biologics and veterinary pharmaceuticals with the Department ; and ~~[requires the Department to establish by regulation an]~~ (2) a reasonable annual registration fee ~~[not to exceed $ 75]~~ for each product. Section 10 of this bill requires any fee collected for the registration of such products to be deposited in the ~~[Agriculture Registration and Enforcement]~~ Livestock Inspection Account. Section 11 of this bill imposes a civil penalty on a person failing to register such products not to exceed: (1) $250 for a first offense; (2) $500 for a second offense; and (3) $1,000 for each subsequent offense. Under section 11: (1) fifty percent of the penalties collected must be used to fund a program to provide loans to persons who are 21 years of age or less and who are engaged in agriculture; and (2) the other 50 percent of the penalties collected must be deposited in the Account for the Control of Weeds.

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

Section 1. Title 50 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 13, 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 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. ~~[*"Animal remedy" means any product used to prevent, inhibit or cure a disease or enhance or protect the health or well-being of animals. The term does not include food.*]~~ (Deleted by amendment.)

Sec. 4. *"Department" means the State Department of Agriculture.*

Sec. 5. *"Director" means the Director of the Department.*

Sec. 6. ~~[*"Pharmaceutical" means any product prescribed for the treatment or prevention of disease for veterinary purposes, including, but not limited to, vaccines, synthetic or natural hormones, anesthetics, stimulants or depressants.*]~~ (Deleted by amendment.)

Sec. 7. ~~[*"Veterinary biologic" means any biologic product used for veterinary purposes, including, but not limited to, antibiotics, antiparasitics, growth promotants or bioculture products.*]~~ (Deleted by amendment.)

Sec. 8. *1. The Department may establish, by regulation, a program to implement the requirements of federal regulations concerning veterinary feed directives, as defined in 21 U.S.C. § 354, including, without limitation, requirements for the registration of any animal remedy, veterinary biologic or pharmaceutical, as those terms are defined in those federal regulations.*

2. The regulations adopted by the Department pursuant to subsection 1 must provide that:

(a) Except as otherwise provided in ~~[subsection 2,]~~ this paragraph, no person shall sell, offer or expose for sale, or deliver to a user, an animal remedy, veterinary biologic or pharmaceutical, in package or in bulk, which has not been registered with the Department pursuant to this chapter ~~[.~~

~~2.]~~ and the regulations adopted pursuant thereto. Any product registered pursuant to NRS 586.010 to 586.450, inclusive, or under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq., ~~[are]~~ is not subject to the provisions of this chapter ~~[.~~

~~3.]~~ and the regulations adopted pursuant thereto.

(b) Except as otherwise provided by law, the manufacturer of each brand of animal remedy, veterinary biologic and pharmaceutical to be sold in this State, whether in package or in bulk, shall register such products with the Department annually pursuant to this chapter ~~[. A]~~ and the regulations adopted pursuant thereto. The regulations may authorize a manufacturer who sells more than one animal remedy, veterinary biologic or pharmaceutical in this State ~~[may]~~ to register all such products with one application.

(c) An application for registration of an animal remedy, veterinary biologic or pharmaceutical must be made on forms provided by the Department and must be accompanied by a reasonable annual registration fee established by the Department by regulation for each animal remedy, veterinary biologic and pharmaceutical.

(d) An application pursuant to paragraph (c) must:

(1) Be filed on or before July 1 of each year; and

(2) Include a list of all animal remedies, veterinary biologics and pharmaceuticals that the applicant intends to market in this State during the following fiscal year.

Sec. 9. ~~[*1. An application for registration of an animal remedy, veterinary biologic or pharmaceutical must be made on forms provided by the Department and must be accompanied by an annual registration fee for each animal remedy, veterinary biologic and pharmaceutical, not to exceed $75 as established by regulation by the Department.*~~

~~*2. An application pursuant to subsection 1 must:*~~

~~*(a) Be filed on or before July 1 of each year; and*~~

~~*(b) Include a list of all animal remedies, veterinary biologics and pharmaceuticals that the applicant intends to market during the upcoming fiscal year.]~~* (Deleted by amendment.)

Sec. 10. *The Department shall deposit all fees collected pursuant to this chapter in the ~~[Agriculture Registration and Enforcement]~~ Livestock Inspection Account created by NRS ~~[561.385.]~~ 561.344.*

Sec. 11. *1. Any person violating the provisions of this chapter is subject to a civil penalty not to exceed:*

(a) For a first offense, $250.

(b) For a second offense, $500.

(c) For a third or subsequent offense, $1,000.

2. Of the money collected by the Department from a civil penalty pursuant to subsection 1:

(a) Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or less; and

(b) The remaining 50 percent must be deposited in the Account for the Control of Weeds created by NRS 555.035.

Sec. 12. *The Director may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this chapter* ~~[.]~~ *and the regulations adopted pursuant thereto.*

Sec. 13. ~~[*The Director shall adopt such regulations as may be necessary to carry out and enforce the provisions of this chapter.*]~~ (Deleted by amendment.)

Sec. 13.5. NRS 561.344 is hereby amended to read as follows:

561.344 1. The Livestock Inspection Account is hereby created in the State General Fund for the use of the Department.

2. The following special taxes, fees and other money must be deposited in the Livestock Inspection Account:

(a) All special taxes on livestock as provided by law.

(b) Fees and other money collected pursuant to the provisions of chapter 564 of NRS.

(c) Fees collected pursuant to the provisions of chapter 565 of NRS.

(d) *Fees collected pursuant to the provisions of sections 2 to 13, inclusive, of this act.*

(e) Unclaimed proceeds from the sale of estrays and feral livestock by the Department pursuant to NRS 569.005 to 569.130, inclusive, or proceeds required to be deposited in the Livestock Inspection Account pursuant to a cooperative agreement established pursuant to NRS 569.031 for the management, control, placement or disposition of estrays and feral livestock.

~~[(e)]~~ *(f)* Fees collected pursuant to the provisions of chapter 573 of NRS.

~~[(f)]~~ *(g)* Fees collected pursuant to the provisions of chapter 576 of NRS.

~~[(g)]~~ *(h)* Laboratory fees collected for the diagnosis of infectious, contagious and parasitic diseases of animals, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of chapter 571 of NRS.

3. Expenditures from the Livestock Inspection Account must be made only for carrying out the provisions of this chapter and chapters 564, 565, 569, 571, 573 and 576 of NRS ~~[.]~~ *and sections 2 to 13, inclusive, of this act.*

4. The interest and income earned on the money in the Livestock Inspection Account, after deducting any applicable charges, must be credited to the Account.

Sec. 14. ~~[NRS 561.385 is hereby amended to read as follows:~~

~~561.385 1. The Agriculture Registration and Enforcement Account is hereby created in the State General Fund for the use of the Department.~~

~~2. The following fees must be deposited in the Agriculture Registration and Enforcement Account:~~

~~(a) *Fees collected pursuant to the provisions of sections 2 to 13, inclusive, of this act.*~~

~~*(b)* Except as otherwise provided in NRS 586.270, fees collected pursuant to the provisions of NRS 586.010 to 586.450, inclusive.~~

~~[(b)] *(c)* Fees collected pursuant to the provisions of chapter 588 of NRS.~~

~~[(c)] *(d)* Fees collected pursuant to the provisions of NRS 590.340 to 590.450, inclusive.~~

~~[(d)] *(e)* Laboratory fees collected for the testing of pesticides as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 555.2605 to 555.460, inclusive, and 586.010 to 586.450, inclusive.~~

~~[(e)] *(f)* Laboratory fees collected for the analysis and testing of commercial fertilizers and agricultural minerals, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of chapter 588 of NRS.~~

~~[(f)] *(g)* Laboratory fees collected for the analysis and testing of petroleum products or motor vehicle fuel, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 590.010 to 590.150, inclusive.~~

~~[(g)] *(h)* Laboratory fees collected for the analysis and testing of antifreeze, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of NRS 590.340 to 590.450, inclusive.~~

~~3. Expenditures from the Agriculture Registration and Enforcement Account may be made to carry out the provisions of this chapter, NRS 555.2605 to 555.460, inclusive, or chapters 586, 588 and 590 of NRS, *or sections 2 to 13, inclusive, of this act* or for any other purpose authorized by the Legislature.]~~ (Deleted by amendment.)

Sec. 15. This act becomes effective:

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

2. On July 1, 2015, for all other purposes.

Senator Gustavson moved the adoption of the amendment.

Remarks by Senator Gustavson.

This amendment to Senate Bill No. 488 deletes definitions of "animal remedy," "pharmaceutical" and "veterinary biologic" products and provides that these terms are as defined in federal regulations. It also provides that an application for registration of veterinary products must be accompanied by a "reasonable" annual registration fee for each product. Finally, it provides that registration fees collected by the Department of Agriculture will be deposited in the Livestock Inspection Account.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Joint Resolution No. 21.

Resolution read second time.

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

Amendment No. 560.

SUMMARY—Urges Congress to enact comprehensive immigration reform. (BDR R-1266)

SENATE JOINT RESOLUTION—Urging Congress to enact comprehensive immigration reform.

WHEREAS, The United States is a nation of immigrants that has grown and strengthened in the diversity of its people; and

WHEREAS, The Constitution of the United States establishes that this country offers equal treatment, opportunity and human dignity to all residents of the United States, regardless of race, creed, color, ethnicity or birthplace; and

WHEREAS, In search of this freedom and equality, millions of immigrants have come to this country in pursuit of the American dream; and

WHEREAS, While only 13 percent of the total population of the United States are immigrants, nearly one-third of all new businesses in the United States in 2011 were started by immigrants; and

WHEREAS, Since achieving statehood in 1864, the great State of Nevada has welcomed immigrants, as reflected by the 1870 Census, which accounted for over 44 percent of the population being foreign-born; and

WHEREAS, Nevada takes pride in having built a strong population of Nevadans from diverse backgrounds and cultures, recently ranking fourth in the nation of states with the highest percentages of immigrants; and

WHEREAS, Nevada is home to over one-half million foreign-born immigrants, of whom over 40 percent have become naturalized citizens, representing a ratio of nearly one in every five Nevadans; and

WHEREAS, This diversity in the State of Nevada is also comprised of talented students and hardworking persons who aspire to become citizens of the United States and contribute to the prosperity of this State which they call home; and

WHEREAS, The growth in our State's population has also been driven by unauthorized immigrants who comprise ~~[approximately 8 percent]~~ a significant percentage of our population, including students and a workforce that remains in the shadows of a broken immigration system; and

WHEREAS, Those unauthorized immigrants include families with children who attend school and their parents who must provide for them, contributing to our economy by paying ~~[approximately $15 million in]~~ property taxes and ~~[almost $110 million in]~~ sales taxes ; ~~[each year;]~~ and

WHEREAS, Comprehensive immigration reform is the only solution to avoid separation of such families and offer them a chance to come out of the shadows and into mainstream America and to have equal rights, obligations and fair treatment in the workplace; and

WHEREAS, Such reform must include requirements that prohibit and prevent criminals from coming into our country and the mechanisms to reinforce our security at the borders, while ensuring a pathway to citizenship

to legalized immigrants who have proven compliance with our laws and demonstrated fiscal responsibility; and

WHEREAS, A guest worker program must be included in any reform to deter illegal immigration while ensuring a qualified and sufficient workforce to satisfy the needs of many industries, including agriculture; and

WHEREAS, Such comprehensive immigration reform must also include a funding system to address the entire spectrum of fiscal impacts that will be experienced by state governments as a result of implementing programs for guest workers and earned legalization and of increasing the number of immigrants in our population; and

WHEREAS, Our elected federal officials must create an immigration process that strengthens our nation's economy, reinforces our border security and allows aspiring citizens to continue making contributions to our communities, our State and our nation; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the members of the 78th Session of the Nevada Legislature hereby urge Congress to enact comprehensive immigration reform as outlined in this resolution which addresses:

1. Earned legal residency accompanied by a clear path to citizenship;

2. The future immigration of families and workers;

3. Improved immigration enforcement and border security that is consistent with our nation's values; and

4. A funding system to address the entire fiscal impact on our State Government; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the President of the United States, the Vice President of the United States as presiding officer of the United States Senate, the Speaker of the United States House of Representatives and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

Amendment No. 560 to Senate Joint Resolution No. 21 deletes statistics in two "whereas" clauses relating to the specific percentage of the population of unauthorized immigrants and the specific amount of taxes paid by unauthorized immigrants. Testimony indicated that some statistics relating to "unauthorized" immigrants may be difficult to verify. Therefore, the Committee thought it would be best to remove these references from 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 1:24 p.m.

SENATE IN SESSION

At 1:25 p.m.
President Hutchison presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bills Nos. 81, 321, 488 be re-referred to the Committee on Finance, upon return from reprint.
Motion carried.

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

Senate in recess at 1:26 p.m.

SENATE IN SESSION

At 2:40 p.m.
President Hutchison presiding.
Quorum present.

Senator Kieckhefer moved that Senate Bill No. 310 be taken from the Secretary's desk and placed at the bottom of the General File.
Motion carried.

Senator Kieckhefer moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 2:40 p.m.

SENATE IN SESSION

At 2:42 p.m.
President Hutchison presiding.
Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 6.
Bill read third time.
Remarks by Senator Hardy.

Senate Bill No. 6 defines the term "patient-centered medical home" to mean a primary care practice that: 1) offers family-centered, culturally-competent health care that is coordinated with outside practitioners and health facilities to provide comprehensive health services; and 2) emphasizes enhanced access to practitioners and preventive care to patients by improving outcomes and experiences and by lowering the cost of health services.

The measure prohibits a primary care practice from representing itself as a patient-centered medical home unless: 1) it is accredited as such by a nationally recognized organization for accrediting patient-centered medical homes; and 2) each physician or advanced practice registered nurse who operates a patient-centered medical home spends at least 60 percent of his or her working hours providing primary health services for the patient-centered medical home.

The State Board of Health and the Commissioner of Insurance are authorized to adopt regulations that: 1) govern the operation of patient-centered medical homes and insurance coverage for health services provided through patient-centered medical homes; and 2) exempt insurance coverage for health services provided through patient-centered medical homes from certain prohibitions on inducements to insurance. This measure is effective upon passage and approval.

Roll call on Senate Bill No. 6:
YEAS—21.
NAYS—None.

Senate Bill No. 6 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 192.

Bill read third time.

Remarks by Senator Harris.

Senate Bill No. 192 provides that sexual conduct between certain employees of a school or volunteers at a school and a pupil or sexual conduct between certain employees of a college or university and a student constitute sex offenses. A person guilty of such an offense is required to register as a sex offender and is subject to certain conditions regarding parole and probation; required to undergo a psychosexual evaluation as part of a presentence investigation, the results of which determine whether the offender can be granted probation or a suspended sentence; required to undergo lifetime supervision; prohibited from having his or her records sealed; and guilty of a category C felony for engaging in such conduct with a person 18 years old or less if, and this is a big if, the person is a student attending a college or university but is still working toward his or her high school degree or its equivalent. We are looking at protecting children K-12th grade.

The bill adds these offenses to the list of those for which the Department of Corrections must conduct a risk to reoffend assessment, which the State Board of Parole Commissioners must take into account before granting or revoking parole. Enhanced penalties are provided for repeat offenders and for those who offend against a child under 14 years of age. Current statutory language denoting that these crimes must be committed by a person "in a position of authority" is deleted, meaning the offender need only be an employee or volunteer of a school for these provisions to apply.

Finally, the bill clarifies that these provisions must not be construed to apply to sexual conduct between two students.

Roll call on Senate Bill No. 192:
YEAS—21.
NAYS—None.

Senate Bill No. 192 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 208.

Bill read third time.

Remarks by Senators Harris and Ford.

SENATOR HARRIS:

Senate Bill No. 208 requires the governing body of a new or expanding charter school, at least 45 days before the school begins accepting applications for enrollment, to notify households within two miles of the school concerning the school's application and enrollment

process. This requirement does not apply to charter schools with an approved capacity of fewer than 250 students. The bill also: provides guidelines for the notification if a school facility location has not been finalized at least 45 days before the initial student application date; authorizes a charter school sponsor to require documentation of a charter school's outreach activities; clarifies a student's enrollment application may be submitted annually and enrollment lotteries can be held no earlier than 45 days after a school begins accepting applications; and authorizes a charter school sponsor to reduce the notification and lottery timelines for good cause.

The essence of the bill is to help charter schools be more reflective of the communities they are serving.

SENATOR FORD:

I rise in support of the bill and want to commend the my colleague from District 9 for the efforts in this regard. It is important our schools reflect our communities, and ultimately, this bill is going to help us do that. I appreciate your efforts in that regard.

Roll call on Senate Bill No. 208:

YEAS—21.

NAYS—None.

Senate Bill No. 208 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

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

Motion carried.

Senate in recess at 2:48 p.m.

SENATE IN SESSION

At 2:49 p.m.

President Hutchison presiding.

Quorum present.

Senate Bill No. 225.

Bill read third time.

Remarks by Senators Farley and Hardy.

SENATOR FARLEY:

Senate Bill No. 225 adds vapor products and alternative nicotine products to the list of tobacco or nicotine-related products that cannot be sold to a person under the age of 18. The bill also requires that retailers post notices regarding the prohibition against selling vapor products and alternative nicotine products to minors and subjects those who violate the prohibition to the same fines that currently exist regarding selling tobacco to a minor. Finally, the bill requires the Attorney General to conduct random, unannounced inspections of locations where these products are sold. This bill is effective on October 1, 2015.

SENATOR HARDY:

I rise in support of this bill. The latest and greatest statistics show that e-cigarette use has gone from about 2 percent to almost 15 percent from 2011 to 2014. Right now, there are more children doing e-cigarettes than there are doing tobacco.

Roll call on Senate Bill No. 225:

YEAS—21.

NAYS—None.

Senate Bill No. 225 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 260.

Bill read third time.

Remarks by Senator Harris.

Senate Bill No. 260 provides that if the holder of a first security interest in a unit within a common-interest community has obtained the unit owner's consent, and if an impound account is established for property tax or insurance payments, the interest holder is required to establish an account to pay homeowner association assessments, special assessments and contributions for capital expenditures. The lender is required to pay the association quarterly or in accordance with due dates established by the association.

Further, if an impound account for assessments exists and is in good standing, no association super-priority lien arises. However, if there is no account or an account is not kept in good standing, a super-priority lien does arise and an association may proceed with foreclosure accordingly. A lender must notify an association within 30 days of an assessment becoming delinquent.

Finally, the bill authorizes the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations necessary to implement impound accounts, including regulating entities that would service these accounts. This bill is effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks, and on January 1, 2016, for all other purposes.

Roll call on Senate Bill No. 260:

YEAS—21.

NAYS—None.

Senate Bill No. 260 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 274.

Bill read third time.

Remarks by Senator Settelmeyer.

Senate Bill No. 274 sets forth procedures by which delegates are appointed to constitutional conventions called pursuant to Article V of the *United States Constitution*. The measure provides that, unless otherwise specified in federal law, such delegates and an equal number of alternate delegates must be appointed by the Nevada Legislature when the Legislature is in regular or special session, or by the Legislative Commission when the Legislature is not in session. The bill specifies that each delegate and alternate delegate must be at least 18 years of age, a qualified elector, registered to vote and a Nevada resident for at least one year prior to appointment. Delegates and alternate delegates must not hold an elective or appointed office while serving as a delegate. Each delegate must be paired with an alternate delegate from the same county and, to the extent practicable, each pair of delegates must represent different counties. Senate Bill No. 274 also sets forth the term of office for a delegate and alternate delegate, the manner in which an alternate must act in place of the delegate and how the appointing authority must fill a vacancy or choose to recall a delegate or alternate delegate.

The measure requires each delegate and alternate delegate to take an oath, in writing, stating that he or she will support the *U.S. Constitution* and abide by the limits set forth in the

Legislature's application calling for the convention and the instructions provided by the appointing authority. A delegate or alternate delegate shall not knowingly or intentionally vote or attempt to act in conflict with these limits or instructions. If a delegate or alternate delegate, or the State's delegation collectively, acts, votes or attempts to act or vote in violation of these instructions or limits, such act or vote is void and the individual delegate forfeits and vacates his or her office. Moreover, a delegate or alternate who violates these provisions is: 1) guilty of a misdemeanor; 2) disqualified from and ineligible for appointment or employment in the public service or as a public officer in Nevada; and 3) subject to a civil penalty of not more than $5,000 for each violation, in addition to court costs and attorney's fees. The bill is effective on July 1, 2015.

Roll call on Senate Bill No. 274:

YEAS—21.

NAYS—None.

Senate Bill No. 274 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly

Senate Bill No. 419.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 419 requires the Aging and Disability Services Division, in cooperation with the State Treasurer, to establish the Nevada ABLE (Achieving a Better Life Experience) Savings Program as a qualified program pursuant to federal law to provide tax-advantaged savings accounts for persons who have certain qualifying disabilities. You notice a little piggy bank on my desk. Neither the State nor its operatives can get into it, only the people who are saving.

In addition, the measure authorizes the Division to establish a program to provide services of independent living and assistive technology for persons with disabilities who need independent living services. Finally, the measure revises the term of the members of the Nevada Commission on Services for Persons with Disabilities to ensure that the members' terms are staggered. This measure is effective on July 1, 2015.

Roll call on Senate Bill No. 419:

YEAS—21.

NAYS—None.

Senate Bill No. 419 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 310.

Bill read third time.

The following amendment was proposed by Senator Kieckhefer:

Amendment No. 611.

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 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.

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 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 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 ~~[the]~~ *:*

(a) The 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 equal to zero ~~[;]~~ *:*

(1) For the period consisting of the first 20 full fiscal years after the creation of the district; and

(2) For the period consisting of the 5 full fiscal years immediately following the period described in subparagraph (1), except that the governing body of the municipality may provide financing or reimbursement pursuant to NRS 271A.120 from not more than 0.5625 percent of the amount of the proceeds of the taxes described in subparagraph (2) of paragraph (c) of subsection 1 of NRS 271A.070 that are collected during the period described in this subparagraph from any retail facilities of a retailer which, on or after July 1, 2013, locates within the boundary of a district; 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 Kieckhefer moved the adoption of the amendment.

Remarks by Senators Kieckhefer and Smith.

SENATOR KIECKHEFER:

This amendment to Senate Bill No. 310 clarifies that the ability to abate the LSST in an extended tourism improvement district applies only to the final five years of the life of that district.

SENATOR SMITH:

I rise in support of the amendment. I worked with the sponsor and the developers on this and they agreed we should not be giving up LSST any more than we ever have to so it will remain in those final years that are added on to this bill.

Amendment adopted.

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

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 137, 373, 384, 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. SETTELMEYER, *Chair*

Mr. President:

Your Committee on Education, to which was referred Senate Bill No. 463, 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. 247, 257, 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 Legislative Operations and Elections, to which was referred Senate Bill No. 421, 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*

SECOND READING AND AMENDMENT

Senate Bill No. 137.

Bill read second time.

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

Amendment No. 569.

SUMMARY—Enacts provisions governing ~~[certain plans for dental]~~ stand-alone dental benefits and policies of health care. (BDR 57-575)

AN ACT relating to insurance; designating a ~~[plan for dental care]~~ stand-alone dental benefit as the primary policy for certain dental ~~[procedures;]~~ care; prohibiting ~~[an]~~ a health insurer ~~[or organization for dental care]~~ from denying ~~[a claim]~~ certain claims on the basis that another health insurer has liability to pay the claim; prohibiting ~~[an insurer or organization for dental care]~~ a health insurer from requiring that a claim be submitted directly to a secondary health insurer under certain circumstances; ~~[requiring that a joint determination be made on a claim within a certain~~

~~period; prohibiting the purchase or sale of a qualified health care plan on the Silver State Health Insurance Exchange if the plan includes an embedded pediatric dental plan;~~] requiring the Commissioner of Insurance to adopt certain regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Certain procedures performed by ~~[oral and maxillofacial surgeons]~~ dentists may be covered by both ~~[plans for dental care]~~ stand-alone dental benefits and policies of health insurance. Existing law regulates policies of health insurance and ~~[plans for dental care]~~ stand-alone dental benefits separately, but provides for no coordination of claims between the two. (Chapters 686C, 689A, 689B, 689C, 695A, 695B, 695C and 695D of NRS) ~~[Section 1 of this]~~ This bill defines a "stand-alone dental benefit" to mean any policy of insurance which only pays for or reimburses the costs of certain dental care and which is not embedded in or included as part of any other policy of health insurance. This bill also requires that for an insurance claim for a procedure provided by ~~[an oral and maxillofacial surgeon]~~ a dentist which may be covered by both the patient's ~~[plan for dental care]~~ stand-alone dental benefit and policy of health insurance, the stand-alone dental ~~[plan]~~ benefit must provide primary coverage. ~~[Section 1]~~ This bill also prohibits a ~~[dental]~~ health insurer from: (1) denying ~~[a claim]~~ certain claims for which it has liability on the basis that another health insurer has liability; or (2) requiring a separate claim be filed with the other health insurer. Finally, ~~[section 1]~~ this bill requires ~~[that a determination of benefits on the claim be made within 30 days after the claim is filed and, as a punitive measure, automatically apportions liability between insurers who fail to provide a determination within the required time limit.~~

~~The Patient Protection and Affordable Care Act requires health plans to include dental coverage for children. (42 U.S.C. § 18022(b)(1)) The Board of Directors of the Silver State Health Insurance Exchange oversees the Exchange and approves any health plan that will be made available for purchase or sale on the Exchange. (NRS 695I.210) During its May 16, 2013, meeting, the Board approved three options for purchasing the required pediatric dental coverage on the Exchange: (1) a stand-alone dental plan which is separate from a health insurance plan; (2) a dental plan which is bundled with a health plan so that the consumer pays a single premium but has separate deductibles for each plan; or (3) a qualified health plan that has pediatric dental benefits embedded within the plan and a single deductible.~~

~~Section 3 of this bill prohibits the purchase or sale of qualified health plans with embedded pediatric dental plans.~~] the Commissioner of Insurance to adopt regulations necessary to carry out the provisions of this bill.

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

Section 1. Chapter 686A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The following provisions apply to a claim for payment submitted for services provided by ~~[an oral and maxillofacial surgeon]~~ a dentist which may be covered, in whole or in part, by a ~~[plan for dental care]~~ stand-alone dental benefit and a policy of health insurance:

(a) If a claimant is covered by a ~~[plan for dental care]~~ stand-alone dental benefit and a policy of health insurance, the ~~[plan for dental care is]~~ stand-alone dental benefit is the primary policy and the claim must be first submitted to the health insurer ~~[or organization for dental care]~~ that issued the ~~[plan for]~~ stand-alone dental ~~[care.]~~ benefit. The issuer of the secondary policy may not reduce benefits based upon payments under the primary policy, except to avoid overpayment to the dentist.

(b) ~~[An]~~ Except as otherwise provided in paragraph (a), a health insurer ~~[or organization for dental care]~~ may not deny a claim for which it has liability solely on the basis that another health insurer ~~[or organization for dental care]~~ has liability to pay the claim.

(c) ~~[An]~~ A health insurer ~~[or organization for dental care]~~ with partial liability for paying a claim may not require the claimant to file a separate claim directly with a secondary health insurer.

~~[(d) The insurers or organizations for dental care must make a joint determination of liability on a claim within 30 days after the claim is submitted to the primary insurer, regardless of the number of insurers sharing liability for the claim. Each claim must be paid within 30 days after the determination of liability is made. Beginning 30 days after the claim is submitted, for every 30 calendar days or portion thereof that a determination of liability is not made, each insurer or organization for dental care automatically incurs liability to the claimant in the amount of 10 percent of the claim, until such time as the claim is fully apportioned.]~~

2. The Commissioner shall adopt regulations necessary to carry out the provisions of this section.

3. As used in this section:

(a) ~~["Oral and maxillofacial surgeon" means a dentist who has been issued a specialist's license to practice oral and maxillofacial surgery pursuant to NRS 631.250 and who provides any of the services described in paragraph (c) of subsection 1 of NRS 631.215.]~~ "Health insurer" means a person who is the holder of a certificate of authority issued pursuant to chapter 680A, 695C, 695D or 695F of NRS or a corporation that is the holder of a certificate of authority issued pursuant to chapter 695B of NRS.

(b) ~~["Organization for dental care" has the meaning ascribed to it in NRS 695D.060.~~

~~(c) "Plan for dental care" has the meaning ascribed to it in NRS 695D.070.]~~ "Stand-alone dental benefit" means any policy which only pays for or reimburses any part of the cost of dental care, as defined in NRS 695D.030. The term does not include such coverage embedded in or included as part of any other policy of health insurance.

Sec. 2. ~~[NRS 695D.215 is hereby amended to read as follows:~~

~~695D.215 1. Except as otherwise provided in subsection 2 [,] *and section 1 of this act,* an organization for dental care shall approve or deny a claim relating to a plan for dental care within 30 days after the organization for dental care receives the claim. If the claim is approved, the organization for dental care shall pay the claim within 30 days after it is approved. If the approved claim is not paid within that period, the organization for dental care shall pay interest on the claim at the rate of interest established pursuant to NRS 99.040. The interest must be calculated from the date the payment is due until the claim is paid.~~

~~2. If the organization for dental care requires additional information to determine whether to approve or deny the claim, it shall notify the claimant of its request for the additional information within 20 days after it receives the claim. The organization for dental care shall notify the provider of dental care of the reason for the delay in approving or denying the claim. The organization for dental care shall approve or deny the claim within 30 days after receiving the additional information. If the claim is approved, the organization for dental care shall pay the claim within 30 days after it receives the additional information. If the approved claim is not paid within that period, the organization for dental care shall pay interest on the claim in the manner prescribed in subsection 1.]~~ (Deleted by amendment.)

Sec. 3. ~~[Chapter 695I of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The Board shall not allow to be purchased or sold on the Exchange any qualified health plan which includes an embedded pediatric dental plan.*~~

~~*2. As used in this section "embedded pediatric dental plan" means any pediatric dental coverage included within a qualified health plan for the purpose of satisfying the essential health benefits requirement of the Federal Act. The term does not include a stand-alone pediatric dental plan which is bundled with a qualified health plan for sale on the Exchange.]~~ (Deleted by amendment.)

Sec. 3.5. The Commissioner of Insurance shall, on or before January 1, 2016, adopt regulations to carry out the amendatory provisions of this act.

Sec. 4. 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 Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 569 makes five changes to Senate Bill No. 137. The amendment: 1) deletes the term "oral and maxillofacial surgeon" and replaces it with the term "dentist;" 2) deletes the term "a plan for dental care" and replaces it with the term "stand-alone dental benefits;" 3) deletes provisions that prohibit a dental insurer from denying a claim for which it has liability on the basis that another insurer has liability or requiring a separate claim be filed with the other insurer; 4) deletes the requirement that a determination of benefits must be made within 30 days after the claim is filed and, as a punitive measure, automatically apportions liability between

insurers who fail to provide a determination within the required time limit; and 5) deletes section 3 of the bill, which prohibits the purchase or sale of qualified health plans with embedded pediatric dental plans under the Silver State Health Insurance Exchange.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 247.

Bill read second time.

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

Amendment No. 392.

SUMMARY—Revises provisions governing new construction by or on behalf of health facilities. (BDR 40-981)

AN ACT relating to public health; providing for the expenditure of certain application fees; prohibiting certain expenditures for new construction by or on behalf of a health facility in certain ~~[smaller cities and towns]~~ less populated areas without the approval of the Director of the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Department of Health and Human Services to collect an application fee from persons who apply for approval of certain projects and services. (NRS 439A.081) Section 1 of this bill provides for the deposit of those fees and requires those fees to be used to administer the state administrative program relating to health planning and development. Section 1 also provides that the fees revert to the State General Fund if the money received from the fees collected is not spent 2 fiscal years after the fees were originally paid.

Existing law prohibits a person from spending more than $2,000,000 or an amount specified by the Department ~~[of Health and Human Services]~~ for new construction by or on behalf of a health facility in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) without the approval of the Director of the Department. This requirement does not apply to construction for purposes unrelated to the provision of health services, renovation and maintenance, a project approved by the Legislature or the construction of a hospital in certain large unincorporated towns that do not already have a hospital. (NRS 439A.100) A person who violates this prohibition is subject to a civil penalty and the rejection of an application for a license to operate a medical facility or the suspension or revocation of such a license. (NRS 439A.310, 449.080, 449.087, 449.089, 449.160) ~~[This]~~ Section 2 of this bill deletes the restriction concerning counties whose population is less than 100,000 and prohibits any such ~~[an]~~ expenditure, without the approval of the Director, for new construction by or on behalf of a health facility unless the construction will occur in an incorporated city or unincorporated town whose population is

~~[less than 25,000 in a county whose population is 100,000 or more.]~~ 60,000 or more (currently the Cities of Henderson, Las Vegas, North Las Vegas, Reno and Sparks) or meets one of the other currently listed exceptions. Section 2 also deletes the exception from this requirement for the construction of a hospital in certain large unincorporated towns that do not have a hospital. Finally, section 2 requires the Director to consider certain criteria when deciding whether to approve a project.

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

Section 1. NRS 439A.081 is hereby amended to read as follows:

439A.081 1. The Department is the agency of the State of Nevada for health planning and development, and shall carry out the state administrative program and perform the functions of health planning and development for the State in accordance with the following priorities:

(a) Providing for the effective use of methods for controlling increases in the cost of health care;

(b) Providing for the adequate supply and distribution of health resources;

(c) Providing for equal access to health care of good quality at a reasonable cost; and

(d) Providing education to the public regarding proper personal health care and methods for the effective use of available health services.

2. In order to carry out the provisions of this chapter, the Director may:

(a) Delegate the duties of the Director and the Department pursuant to this chapter to any of the divisions of the Department;

(b) Hire employees in the classified service;

(c) Adopt such regulations as are necessary; and

(d) Apply for, accept and disburse money granted by the Federal Government for the purposes of health planning and development.

3. The Department may, by regulation, fix fees to be collected from applicants seeking approval of proposed health facilities or services. The amounts of such fees must be based upon the Department's costs of examining and acting upon the applications.

4. *Any application fees collected pursuant to subsection 3 are not refundable and must be deposited in the State Treasury and accounted for separately in the State General Fund. Any interest and income earned on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of a fiscal year does not revert to the State General Fund and the balance in the account must be carried forward to the next fiscal year. Any money remaining in the account that is not committed for expenditure after 2 fiscal years following the date on which the money is paid as a fee reverts to the State General Fund. All claims against the account must be paid as other claims against the State are paid. The money in the account must be used to pay the costs of administering the state administrative program.*

5. In developing and revising any state plan for health planning and development, the Department shall consider, among other things, the amount of money available from the Federal Government for health planning and development and the conditions attached to the acceptance of that money, and the limitations of legislative appropriations for health planning and development.

~~[Section 1.]~~ *Sec. 2.* NRS 439A.100 is hereby amended to read as follows:

439A.100 1. Except as otherwise provided in this section, ~~[in a county whose population is less than 100,000, *or in an incorporated city or unincorporated town whose population is less than 25,000 in a county whose population is 100,000 or more,]*~~ no person may undertake any proposed expenditure for new construction by or on behalf of a health facility in excess of the greater of $2,000,000 or such an amount as the Department may specify by regulation, which under generally accepted accounting principles consistently applied is a capital expenditure, without first applying for and obtaining the written approval of the Director. The Division of Public and Behavioral Health of the Department shall not issue a new license or alter an existing license for such a project unless the Director has issued such an approval.

2. The provisions of subsection 1 do not apply to:

(a) Any capital expenditure for:

(1) The acquisition of land;

(2) The construction of a facility for parking;

(3) The maintenance of a health facility;

(4) The renovation of a health facility to comply with standards for safety, licensure, certification or accreditation;

(5) The installation of a system to conserve energy;

(6) The installation of a system for data processing or communication; or

(7) Any other project which, in the opinion of the Director, does not relate directly to the provision of any health service;

(b) Any project for the development of a health facility that has received legislative approval and authorization; or

(c) ~~[A project for the construction of a hospital in an unincorporated town if:~~

~~(1) The population of the unincorporated town is more than 24,000;~~

~~(2) No other hospital exists in the town;~~

~~(3) No other hospital has been approved for construction or qualified for an exemption from approval for construction in the town pursuant to this section; and~~

~~(4) The unincorporated town is at least a 45-minute drive from the nearest center for the treatment of trauma that is licensed by the Division of Public and Behavioral Health of the Department.]~~ *Any proposed expenditure for new construction by or on behalf of a health facility that will occur in an*

incorporated city or unincorporated town whose population is 60,000 or more.

➥ Upon determining that a project satisfies the requirements for an exemption pursuant to this subsection, the Director shall issue a certificate which states that the project is exempt from the requirements of this section.

3. In reviewing an application for approval, the Director shall:

(a) Comparatively assess applications for similar projects affecting the same geographic area; and

(b) Base his or her decision on criteria established by the Director by regulation. The criteria must include:

(1) The need for and the appropriateness of the project in the area to be served;

(2) The financial feasibility of the project;

(3) The effect of the project on the cost of health care; and

(4) The extent to which the project is consistent with the purposes set forth in NRS 439A.020 and the priorities set forth in NRS 439A.081 ~~[.]~~ *, including, without limitation:*

(I) The impact of the project on other health care facilities;

(II) The need for any equipment that the project proposes to add, the manner in which such equipment will improve the quality of health care and any protocols provided in the project for avoiding repetitive testing;

(III) The impact of the project on disparate health outcomes for different populations in the area that will be served by the project;

(IV) The manner in which the project will expand, promote or enhance the capacity to provide primary health care in the area that will be served by the project;

(V) Any plan by the applicant to collect and analyze data concerning the effect of the project on health care quality and patient outcomes in the area served by the project;

(VI) Any plan by the applicant for controlling the spread of infectious diseases; and

(VII) The manner in which the applicant will coordinate with and support existing health facilities and practitioners, including, without limitation, mental health facilities, programs for the treatment and prevention of substance abuse and nursing pools, as defined in NRS 449.0153.

4. The Department may by regulation require additional approval for a proposed change to a project which has previously been approved if the proposal would result in a change in the location of the project or a substantial increase in the cost of the project.

5. The decision of the Director is a final decision for the purposes of judicial review.

6. As used in this section, "hospital" has the meaning ascribed to it in NRS 449.012.

~~[Sec. 2.]~~ *Sec. 3.* This act becomes effective on July 1, 2015.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 392 to Senate Bill No. 247: 1) provides for the deposit of certain application fees collected by the Department of Health and Human Services from persons who apply for approval of certain projects and services to be used to administer the State administrative program relating to health planning and development. The amendment also provides that the fees revert to the State General Fund if the money received from the fees collected is not spent within two fiscal years after the fees were originally paid; 2) deletes the restriction concerning counties whose population is less than 100,000 and prohibits any such expenditure, without the approval of the Director, for new construction by or on behalf of a health facility unless the construction will occur in an incorporated city or unincorporated town whose population is 60,000 or more or meets one of the other currently listed exceptions; 3) deletes the exception from this requirement for the construction of a hospital in certain large unincorporated towns that do not have a hospital; and 4) requires the Director to consider certain criteria when deciding whether to approve a project, such as the impact of the project on: other health care facilities; disparate health outcomes for different populations in the area; how the project might enhance access to primary health care in the area; and health care quality and patient outcomes in the area.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 257.

Bill read second time.

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

Amendment No. 393.

SUMMARY—Revises provisions relating to child care facilities. (BDR 38-97)

AN ACT relating to public welfare; revising the amount and type of training that an employee of a child care facility is required to complete; setting forth certain requirements relating to services performed by an independent contractor at a child care facility; revising provisions concerning the frequency and timing of certain background investigations required to be conducted by the Division of Public and Behavioral Health of the Department of Health and Human Services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each person who is employed in a child care facility, other than a facility that provides care for ill children, to: (1) complete 15 hours of training annually if the facility provides care for more than 5 children but less than 12 children; and (2) on or after January 1, 2016, complete at least 24 hours training annually if the facility provides care for more than 12 children. Existing law provides that at least 2 hours of the required training must be devoted to lifelong wellness, health and safety of children. (NRS 432A.1775) Section 3 of this bill requires each person who is employed in a child care facility, other than a facility that provides care for ill children, to complete 24 hours of training annually. Section 3 also requires at least 12 hours of that training to be devoted to the care, education and safety

of children that is: (1) specific to the age group served by the child care facility for which the person is employed; and (2) approved by the State Board of Health by regulation. Section ~~[1]~~ 1.3 of this bill requires each person who is employed in a child care facility to complete an additional 3 hours of training in the recognition and reporting of child abuse and neglect.

Existing law defines a "child care facility" to include, without limitation, an on-site child care facility, a child care institution and an outdoor youth program. (NRS 432A.024) Section 1.7 of this bill requires a licensee of a child care facility to ensure that an employee of the child care facility is in the presence of an independent contractor retained by the child care facility during any period in which the independent contractor is performing any services at the child care facility when a child is present.

Existing law provides for the licensure of certain child care facilities. (NRS 432A.131-432A.220) As part of the process of obtaining a license to operate a child care facility, the Division of Public and Behavioral Health of the Department of Health and Human Services is required to conduct a background check of certain employees, residents and participants of facilities and prohibit unsupervised contact with a child pending the results of a background investigation. The Division is also required to conduct a background investigation every 5 years after the initial investigation. (NRS 432A.170, 432A.175) Section 2 of this bill requires the Division to conduct a background investigation of those employees : (1) not later than 3 days after the employee is hired and before the employee has any direct contact with any child at the child care facility; and (2) every 2 rather than 5 years after the initial investigation.

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

Section 1. Chapter 432A of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. Each person who is employed in a child care facility shall complete at least 3 hours of training in the recognition and reporting of child abuse and neglect:

1. Within 90 days after commencing his or her employment in a child care facility; and

2. At least once every 5 years thereafter.

Sec. 1.7. 1. A licensee of a child care facility shall ensure that an employee of the child care facility is in the presence of an independent contractor retained by the child care facility during any period in which the independent contractor is performing any services at the child care facility when a child is present.

2. The employee of the child care facility who is required to be in the presence of the independent contractor pursuant to subsection 1:

(a) Must be qualified to supervise the children at the child care facility; and

(b) Shall, during the period for which the independent contractor is performing the services at the child care facility, supervise and ensure the safety of each child at the child care facility.

Sec. 2. NRS 432A.170 is hereby amended to read as follows:

432A.170 1. The Division may, upon receipt of an application for a license to operate a child care facility, conduct an investigation into the:

(a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;

(b) Qualifications and background of the applicant or the employees of the applicant;

(c) Method of operation for the facility; and

(d) Policies and purposes of the applicant.

2. The Division shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older, to determine whether the person has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

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

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

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

(f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

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

3. The Division shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older, from:

(a) The Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report pursuant to NRS 432A.175; and

(b) The Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.

4. The Division may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

5. The information required to be obtained pursuant to subsections 2 and 3 must be requested concerning ~~[an:]~~ *:*

(a) ~~[Employee]~~ *An employee* of an applicant or licensee ~~[, resident *not]*~~ *:*

(1) Not later than 3 days after the employee is hired ~~[,]~~ and ~~[then at]~~ before the employee has any direct contact with any child at the child care facility; and

(2) At least once every 2 years after the employee is hired.

(b) A resident of a child care facility who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS 432B.594, or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after ~~[the employee is hired,]~~ the residency begins or the participant begins participating in the program, and then at least once every 5 years thereafter.

~~[(b) Applicant]~~

(c) An applicant at the time that an application is submitted for licensure, and then at least once every 5 years after the license is issued.

6. A person who is required to submit to an investigation required pursuant to this section shall not have contact with a child in a child care facility without supervision before the investigation of the background and personal history of the person has been conducted.

Sec. 3. NRS 432A.1775 is hereby amended to read as follows:

432A.1775 1. Each person who is employed in a child care facility , ~~[that provides care for more than 12 children,]~~ other than in a facility that provides care for ill children, shall *, in addition to completing the training required by section ~~[1]~~ 1.3 of this act,* complete ~~[:~~

~~(a) Before January 1, 2014, at least 15 hours of training;~~

~~(b) On or after January 1, 2014, and before January 1, 2015, at least 18 hours of training;~~

~~(c) On or after January 1, 2015, and before January 1, 2016, at least 21 hours of training; and~~

~~(d) On or after January 1, 2016,~~] 24 hours of training each year.

2. ~~[Except as otherwise provided in subsection 1, each person who is employed in any child care facility, other than in a facility that provides care for ill children, shall *, in addition to completing the training required by section 1 of this act,* complete at least 15 hours of training each year.~~

~~3.~~] At least ~~[2]~~ *:*

(a) Twelve hours of the training required by ~~[subsections 1 and 2]~~ subsection 1 each year must be devoted to the care, education and safety of children specific to the age group served by the child care facility in which the person is employed and must be approved in accordance with regulations adopted by the Board; and

(b) Two hours of the training required by ~~[subsections 1 and 2]~~ *subsection 1* each year must be devoted to the lifelong wellness, health and safety of children and must include training relating to childhood obesity, nutrition and physical activity.

Sec. 4. NRS 432A.220 is hereby amended to read as follows:

432A.220 Any person who operates a child care facility without a license issued pursuant to NRS 432A.131 to 432A.220, inclusive, *and ~~[section 1]~~ sections 1.3 and 1.7 of this act* is guilty of a misdemeanor.

Sec. 5. 1. Each person who, on January 1, 2016, is employed in a child care facility shall complete the training requirements set forth in section ~~[1]~~ 1.3 of this act before January 1, 2017.

2. As used in this section, "child care facility" has the meaning ascribed to it in NRS 432A.024.

Sec. 6. This act becomes effective:

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

2. On January 1, 2016, for all other purposes.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 393 to Senate Bill No. 257 requires each person who is employed in a child care facility, other than a facility that provides care of ill children, to complete 24 hours of training annually; requires a licensee of a child care facility to ensure that an employee of the child care facility is in the presence of an independent contractor retained by the child care facility during any period in which the independent contractor is performing any services at the child care facility when a child is present; and requires the Division to conduct a background investigation of those employees: not later than three days after the employee is hired and before the employee has any direct contact with any child at the child care facility.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 373.

Bill read second time.

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

Amendment No. 304.

SUMMARY—Makes various changes relating to insurance. (BDR 57-689)

AN ACT relating to insurance; providing for the licensure of a producer of limited lines travel insurance; authorizing such producers to offer and

disseminate travel insurance through certain travel retailers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commissioner of Insurance to license producers of insurance to solicit, negotiate and sell insurance in this State. (NRS 683A.261) Section 7 of this bill authorizes the Commissioner to issue licenses to producers of limited lines travel insurance allowing them to solicit, negotiate and sell policies of travel insurance. Section 8 of this bill allows a person licensed as a producer of limited lines travel insurance to sell policies of travel insurance through certain travel retailers under certain conditions. Section 9 of this bill requires a producer of limited lines travel insurance to maintain a register of the travel retailers through which policies of travel insurance are sold. Section 10 of this bill exempts producers of limited lines travel insurance and travel retailers from the educational and written examination requirements of chapter 683A of NRS. Section 11 of this bill requires travel retailers to make certain disclosures to purchasers of travel insurance. Section 12 of this bill prohibits a travel retailer from evaluating, providing advice or rendering opinions regarding the technical terms and benefits of a policy of travel insurance offered by the travel retailer or a purchaser's existing insurance coverage. Section 13 of this bill authorizes a producer of limited lines travel insurance to pay compensation to a travel retailer for services related to the sale of travel insurance. Sections 14 and 15 of this bill make a producer of limited lines travel insurance responsible for the acts of a travel retailer who offers travel insurance and subjects both the producer and retailer to the disciplinary provisions of chapter 683A of NRS and the provisions of chapter 686A of NRS governing insurance trade practices and fraud.

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

Section 1. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this act.

Sec. 2. *As used in NRS 683A.201 to 683A.370, inclusive, and sections 2 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Producer of limited lines travel insurance" means a person licensed pursuant to section 7 of this act who is authorized by an insurer to solicit travel insurance either directly or through a travel retailer.*

Sec. 4. *"Offer and disseminate" means the provision of general information, including, without limitation, a description of the coverage and price of travel insurance, as well as the processing of applications, collection of premiums and performance of other activities that are allowed without obtaining a license issued pursuant to this chapter.*

Sec. 5. *1. "Travel insurance" means insurance coverage for personal risks incident to planned travel, including, without limitation:*

(a) Interruption or cancellation of a trip or event;

(b) Loss of baggage or personal effects;

(c) Damages to accommodations or rental vehicles; or

(d) Sickness, accident, disability or death occurring during travel.

2. The term does not include major medical plans which provide comprehensive medical protection for travelers whose trips are intended to last longer than 6 months, including, without limitation, persons working overseas as expatriates or deployed military personnel.

Sec. 6. *"Travel retailer" means a person that makes, arranges or offers travel services and, as an ancillary service to its customers, may offer and disseminate travel insurance on behalf of, and under the general direction and supervision of, a producer of limited lines travel insurance.*

Sec. 7. *In accordance with the provisions of NRS 683A.201 to 683A.370, inclusive, and sections 2 to 15, inclusive, of this act, the Commissioner may issue a license as a producer of limited lines travel insurance to a person who has filed with the Commissioner. A license issued pursuant to this section authorizes the licensee to sell, solicit or negotiate travel insurance through a licensed agent.*

Sec. 8. *1. A travel retailer may offer and disseminate policies of travel insurance on behalf of and within the scope of a license issued pursuant to section 7 of this act under the following conditions:*

(a) The producer of limited lines travel insurance or travel retailer provides to a purchaser or prospective purchaser of travel insurance:

(1) A description of the material terms, or the actual material terms, of the insurance coverage;

(2) A description of the process for filing a claim;

(3) A description of the review or cancellation process for the policy of travel insurance; and

(4) The identity and contact information of the insurer and the producer of limited lines travel insurance;

(b) The travel retailer is included in the register maintained by the producer of limited lines travel insurance pursuant to section 9 of this act;

(c) The producer of limited lines travel insurance has designated one of its employees who is licensed as a producer of insurance pursuant to this chapter to be responsible for compliance with the provisions of this title and any rules or regulations adopted pursuant thereto;

(d) The person designated pursuant to paragraph (c) and the officers of the producer of limited lines travel insurance, or any person who directs or controls the insurance operations of the producer of limited lines travel insurance, are in compliance with the provisions of this title and the laws, rules and regulations governing the provision and sale of insurance in any other state in which the producer of limited lines travel insurance is a resident or conducts insurance operations;

(e) The producer of limited lines travel insurance has paid all applicable licensing fees in accordance with the provisions of this chapter; and

(f) The producer of limited lines travel insurance requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training approved by the Commissioner. The training material provided as part of such a program must, at a minimum, contain instructions on the types of insurance offered, ethical sales practices and required disclosures to prospective purchasers.

2. Travel insurance may be provided as an individual policy or under a group or master policy.

Sec. 9. *1. Each producer of limited lines travel insurance shall, at the time of licensure, establish and maintain a register, on a form and in a manner prescribed by the Commissioner, which includes a list of each travel retailer that offers and disseminates travel insurance on behalf of the producer of limited lines travel insurance. The register must include, without limitation:*

(a) The name, address and contact information of the travel retailer;

(b) The name, address and contact information for each officer or other person who directs or controls the travel retailer's operations; and

(c) The travel retailer's federal tax identification number.

2. The producer of limited lines travel insurance shall regularly update the register and shall submit a copy of the register to the Commissioner on an annual basis as directed by the Commissioner. In addition to the annual submission of the register required by this subsection, the Commissioner may require, with reasonable notice and at the Commissioner's sole discretion, a producer of limited lines travel insurance to submit a copy of the register upon request.

3. A producer of limited lines travel insurance shall certify that the register required pursuant to subsection 1 does not violate the provisions of 18 U.S.C. 1033(c).

Sec. 10. *1. An applicant for, or holder of, a license issued pursuant to section 7 of this act is not required to pass a written examination or meet any prelicensing education or continuing education requirements to receive or renew a license.*

2. A travel retailer who is listed in the register maintained pursuant to section 9 of this act or any employee or authorized representative of such a travel retailer who is listed in the register of a producer of limited lines travel insurance, is not required to pass any written examination or complete any education requirements other than the program of instruction or training required by paragraph (f) of subsection 1 of section 8 of this act.

Sec. 11. *A travel retailer offering or disseminating travel insurance shall make available to prospective purchasers a brochure or other written material that:*

1. Provides the identity and contact information of the insurer and the producer of limited lines travel insurance;

2. Explains that the purchase of travel insurance may not be required to purchase any other product or service from the travel retailer; and

3. Discloses that a travel retailer may provide general information about the insurance offered by the travel retailer, including a description of the coverage and the price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of any existing travel insurance the prospective purchaser may have.

Sec. 12. *Any travel retailer, or an employee or authorized representative of the travel retailer, who does not hold a valid license as a producer of insurance pursuant to this chapter shall not:*

1. Evaluate or interpret the technical terms, benefits and conditions of an offered travel insurance policy;

2. Evaluate, provide advice or render an opinion concerning a prospective purchaser's existing insurance coverage or whether such insurance provides adequate coverage for travel related risks; or

3. Hold himself or herself out as a licensed insurer, licensed producer of insurance or insurance expert.

Sec. 13. *1. A travel retailer, or any employee or authorized representative of a travel retailer, who is listed in the register of a limited lines travel insurance producer as being authorized to offer and disseminate travel insurance pursuant to section 9 of this act may receive from the producer of limited lines travel insurance compensation related to the offering and disseminating of travel insurance.*

2. A travel retailer, or employee or authorized representative of a travel retailer, who does not hold a valid license as a producer of insurance or a producer of limited lines travel insurance pursuant to this chapter shall not receive any compensation for the performance of any insurance related activity or service, other than the offering and disseminating of travel insurance as authorized pursuant to subsection 1.

Sec. 14. *A producer of limited lines travel insurance is responsible for the acts of each travel retailer, or employee or authorized representative of a travel retailer, who offers or disseminates travel insurance under the license of the producer of limited lines travel insurance and shall use every reasonable means to ensure compliance by the travel retailers with the provisions of this chapter and any regulations adopted pursuant thereto.*

Sec. 15. *A producer of limited lines travel insurance and each travel retailer, or employee or authorized representative of a travel retailer, who offers or disseminates travel insurance under the license of a producer of limited lines travel insurance shall be subject to the provisions of NRS 683A.451 to 683A.520, inclusive, and chapter 686A of NRS.*

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, the Commissioner shall issue a license as a producer of insurance ~~*[for producer of limited lines travel insurance]*~~ to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. ~~*[and sections 2 to 15, inclusive, of this act.]*~~ A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability income.

(b) Accident and health insurance for sickness, bodily injury or accidental death, which may include benefits for disability income.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property. For the purposes of a producer of insurance, this line of insurance includes surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(e) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(f) Credit insurance, including credit life, credit accident and health, credit property, credit involuntary unemployment, guaranteed asset protection, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(g) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(h) Fixed annuities, including, without limitation, indexed annuities, as a limited line.

(i) Travel ~~[and baggage]~~ *insurance, as defined in section 5 of this act,* as a limited line.

(j) Rental car agency as a limited line.

(k) Portable electronics as a limited line.

(l) Crop as a limited line.

2. A license as a producer of insurance ~~*[for producer of limited lines travel insurance]*~~ remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, all applicable fees for renewal and a fee established by the Commissioner of not more than $15 for deposit in the Insurance Recovery Account are paid for each license and each authorization

to transact business on behalf of a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance ~~[or producer of limited lines travel insurance]~~ may submit a request for a renewal of his or her license within 30 days after the date specified on the license for the renewal if the producer of insurance ~~[or producer of limited lines travel insurance]~~ otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of all applicable renewal fees, except for any fee required pursuant to NRS 680C.110. A license as a producer of insurance ~~[or producer of limited lines travel insurance]~~ expires if the Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his or her license as a producer of insurance ~~[or producer of limited lines travel insurance]~~ to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110, is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance ~~[or producer of limited lines travel insurance]~~ who is unable to renew his or her license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. The license must be made available for public inspection upon request.

6. A licensee shall inform the Commissioner of each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes his or her business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, the Commissioner may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his or her last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 683A.325 is hereby amended to read as follows:

683A.325 1. ~~[A]~~ *Except as otherwise provided in section 13 of this act, a* producer of insurance ~~*[for producer of limited lines travel insurance]*~~ who is appointed as an agent may pay a commission or compensation for or on account of the selling, soliciting, procuring or negotiating of insurance in this State only to a licensed and appointed producer of insurance ~~*[for producer of limited lines travel insurance]*~~ of the insurer with whom insurance was placed or to a licensed producer acting as a broker.

2. A licensee shall not accept any commission or compensation to which the licensee is not entitled pursuant to the provisions of this title.

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. This act becomes effective 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 on January 1, 2016, for all other purposes.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 304 makes several changes to Senate Bill No. 373. The amendment deletes sections of the bill referencing "producer of limited lines of travel" because the use of that term in existing provisions of *Nevada Revised Statutes* would be redundant to the use of the existing term of "producer of insurance," which already captures the new term "producer of limited lines of travel."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 384.

Bill read second time.

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

Amendment No. 464.

SUMMARY—Revising provisions relating to family trust companies. (BDR 55-279)

AN ACT relating to family trust companies; providing for the appointment of guardians for certain family members and beneficiaries; providing for the designation of representatives of beneficiaries; providing for the

confidentiality of certain trust documents and communications; providing for a rebuttable presumption of good faith for the actions of certain fiduciaries; authorizing certain transactions by certain fiduciaries; revising reporting requirements for certain fiduciaries; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the regulation of family trust companies. (Chapter 669A of NRS) Section 3 of this bill authorizes a court to appoint a guardian for minors or incompetents who are family members or beneficiaries of a trust or estate represented by a family trust company. Section 4 of this bill provides for the designation of a person to represent and bind a beneficiary of a trust administered by a family trust company. Section 5 of this bill provides that newly enacted duties of fiduciaries in other titles of NRS shall not apply to family trust companies, and existing provisions only apply to the extent they are not incompatible with existing law governing family trusts or any terms of the trust. Section 6 of this bill provides for the liberal construction of provisions relating to family trust companies to give maximum effect to the intent of the trust settlor. Section 7 of this bill allows a family trust company to petition a court to seal certain trust documents in a court proceeding to protect their confidentiality. Section 8 of this bill provides that the communications between an attorney and a family trust company are confidential and provides for the disclosure of those communications under certain circumstances. Section 10 of this bill provides that a licensed family trust company is subject to the supervision of the Commissioner of Financial Institutions. Section 11 of this bill provides that a family trust company enjoys a rebuttable presumption of good faith in their transactions and dealings. Section 13 of this bill provides that certain transactions by a family trust company shall be presumed to not be conflicts of interest. Finally, section 14 of this bill revises certain reporting requirements for family trust companies.

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

Section 1. Chapter 669A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2]~~ 1.5 to 8, inclusive, of this act.

Sec. 1.5. *"Beneficiary" has the meaning ascribed to it in NRS 132.050.*

Sec. 2. *"Fiduciary" means:*

1. A person described in NRS 132.145;

2. A person described in NRS 163.554;

3. An excluded fiduciary as defined in NRS 163.5539; and

4. A trust protector as defined in NRS 163.5547,

➥ *who may not be acting as a fiduciary under the terms of the trust instrument or will.*

Sec. 3. *Any court of competent jurisdiction may appoint a guardian of the estate or guardian ad litem for incompetents or minors who are not residents of this State and who are family members or beneficiaries of a trust*

or an estate for which a family trust company or licensed family trust company administers the trust or estate in this State.

Sec. 4. *1. Except as otherwise provided in subsections 2 and 3, if specifically nominated in the trust instrument, one or more persons may be designated to represent and bind a beneficiary of a trust administered by a family trust company or licensed family trust company and to receive any notice, information, accounting or report regarding the trust. The trust instrument may also authorize any person or persons, other than a trustee, to designate one or more persons to represent and bind a beneficiary and to receive any notice, information, accounting or report.*

2. A person designated to represent and bind a beneficiary of a trust, as provided in subsection 1, may not represent and bind a beneficiary while that person is serving as a trustee of that trust.

3. Notwithstanding any provision of law to the contrary, a person designated to represent and bind a beneficiary of a trust, as provided in subsection 1, may not represent and bind a beneficiary if that person is also a beneficiary, unless that person is:

(a) Specifically nominated in the trust instrument;

(b) The beneficiary's spouse; or

(c) A parent, grandparent or descendant of a grandparent of the beneficiary or the beneficiary's spouse.

4. A person designated to represent and bind a beneficiary of a trust, as provided in subsection 1, is not liable to that beneficiary or his or her agent or successor for any acts or omissions made in good faith.

Sec. 5. *1. Except as otherwise specified in the trust or in this chapter, a family trust company or licensed family trust company shall comply with the provisions of NRS 165.147.*

2. Any fiduciary duties required pursuant to title 12 or 13 of NRS after October 1, 2015, apply only to a trust or estate administered by a family trust company or licensed family trust company in this State which was created, commenced or became irrevocable after the enactment of such duties. Such duties shall only apply to the extent that they are not inconsistent or contrary with any provision of this chapter or any terms of the trust.

Sec. 6. *The rule that statutes in derogation of the common law are to be strictly construed has no application to this chapter. This chapter must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments. This chapter will control over any contrary provisions of law.*

Sec. 7. *1. In any court proceeding relating to a trust or estate, the family trust company, licensed family trust company, other fiduciary of the trust, settlor or any beneficiary, may petition the court to order the following trust documents to be sealed:*

(a) Any trust instruments;

(b) Any inventories;

(c) Any accounts;

(d) Any statements filed by a fiduciary;

(e) Any annual reports of a fiduciary;

(f) Any final reports of a fiduciary;

(g) All petitions, exhibits, objections, pleadings and motions relevant to the trust or its administration; and

(h) All court orders.

2. Any documents sealed by a court pursuant to subsection 1 may not be made part of the public record but are available to the court, any fiduciary of the trust, the beneficiaries or settlor of the trust or their attorneys, and to other interested parties as the court may order upon a showing of good cause.

Sec. 8. *1. Any communication between an attorney and a family trust company or licensed family trust company acting as a fiduciary is privileged and protected from disclosure to the same extent as if the client were acting in his or her individual capacity.*

2. The privilege is not waived by:

(a) A fiduciary relationship between the family trust company or licensed family trust company and a beneficiary of a trust; or

(b) The use of trust property to compensate the attorney for legal services rendered to the family trust company or licensed family trust company as a fiduciary.

3. The attorney-client relationship between an attorney and a family trust company or licensed family trust company acting as a fiduciary shall not extend to a successor fiduciary to the family trust company or licensed family trust company.

4. A family trust company or licensed family trust company acting as a fiduciary and its successor fiduciary may, pursuant to an agreement, share privileged communications relating to the trust ~~[.]~~ or estate. The disclosure of privileged communications under the agreement does not waive the disclosing party's privilege. Unless otherwise specified in the agreement, privileged communications disclosed under the agreement shall not be disclosed to a third party without the disclosing party's consent.

5. This section does not abridge, limit, impair, create, enlarge or otherwise affect the law governing exceptions to the attorney-client privilege relative to a claimant through the same deceased person.

Sec. 9. NRS 669A.020 is hereby amended to read as follows:

669A.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 669A.030 to 669A.090, inclusive, *and ~~[section]~~ sections 1.5 and 2 of this act* have the meanings ascribed to them in those sections.

Sec. 10. NRS 669A.110 is hereby amended to read as follows:

669A.110 A family trust company:

1. Is not required to be licensed pursuant to this chapter or chapter 669 of NRS.

2. May apply for a license as:

(a) A trust company pursuant to chapter 669 of NRS; or

(b) A licensed family trust company pursuant to this chapter.

3. Is subject to the supervision of the Commissioner under this chapter if licensed as a licensed family trust company pursuant to this chapter.

Sec. 11. NRS 669A.135 is hereby amended to read as follows:

669A.135 Notwithstanding the provisions of any law to the contrary, a family trust company or licensed family trust company, or an employee or agent of a family trust company or licensed family trust company, is not liable to an interested person for any transaction, decision to act or decision to not act if the family trust company or licensed family trust company or employee or agent thereof acted in good faith and in reasonable reliance on the express terms of a trust instrument, a written consent , ~~[agreement or]~~ a court order ~~[.]~~ *, a nonjudicial settlement agreement or a written waiver contained in a trust instrument or in a separate written instrument such as a waiver of any duty to diversify. Good faith shall be presumed unless rebutted by clear and convincing evidence to the contrary.*

Sec. 12. NRS 669A.220 is hereby amended to read as follows:

669A.220 1. A family trust company may, but only for family members:

(a) Act as a fiduciary ~~[, including as a personal representative,]~~ within and outside this State ~~[.]~~ *as permitted by law and as consistent with the trust ~~[,]~~ or will.*

(b) Act within and outside this State as advisory agent, agent, assignee, assignee for the benefit of creditors, attorney-in-fact, authenticating agent, bailee, bond or indenture trustee, conservator, conversion agent, curator, custodian, escrow agent, exchange agent, fiscal or paying agent, financial advisor, investment advisor, investment manager, managing agent, purchase agent, receiver, registrar, safekeeping agent, subscription agent, transfer agent except for public companies, warrant agent, or in similar capacities generally performed by corporate trustees, and in so acting to possess, purchase, sell, invest, reinvest, safekeep or otherwise manage or administer real or personal property of other persons.

(c) Exercise the powers of a business corporation or a limited-liability company organized or qualified as a foreign corporation or a limited-liability company under the laws of this State and any incidental powers that are reasonably necessary to enable it to fully exercise, in accordance with commonly accepted customs and usages, a power conferred in this chapter.

(d) Do and perform all acts necessary or incidental to exercise the powers enumerated in this section or authorized by this chapter and any other applicable laws of this State.

2. A family trust company shall not engage in any:

(a) Banking with the public; or

(b) Trust company business with the public unless licensed pursuant to chapter 669 of NRS.

Sec. 13. NRS 669A.225 is hereby amended to read as follows:

669A.225 1. In addition to the transactions authorized by NRS 669A.230 and notwithstanding the provisions of any other law to the contrary, while acting as the fiduciary of a trust, a family trust company or licensed family trust company may:

(a) Invest in a security of an investment company or investment trust for which the family trust company or licensed family trust company, or a family affiliate, provides services in a capacity other than as a fiduciary;

(b) Place a security transaction using a broker that is a family affiliate;

(c) Invest in an investment contract that is purchased from an insurance company or carrier owned by or affiliated with the family trust company or licensed family trust company, or a family affiliate;

(d) Enter into an agreement with a beneficiary or grantor of a trust with respect to the appointment or compensation of the fiduciary or a family affiliate;

(e) Transact with another trust, estate, guardianship or conservatorship for which the family trust company or licensed family trust company is a fiduciary or in which a beneficiary has an interest;

(f) Make an equity investment in a closely held entity that may or may not be marketable and that is owned or controlled, either directly or indirectly, by one or more beneficiaries, family members or family affiliates;

(g) Deposit trust money in a financial institution that is owned or operated by a family affiliate;

(h) Delegate the authority to conduct any transaction or action pursuant to this section to an agent of the family trust company or licensed family trust company, or a family affiliate;

(i) Purchase, sell, hold, own or invest in any security, bond, real or personal property, stock or other asset of a family affiliate;

(j) Loan money to *,* ~~[or]~~ borrow money from ~~[.]~~ *or guaranty indebtedness on behalf of:*

(1) A family member of the trust or his or her legal representative;

(2) Another trust managed by the family trust company or licensed family trust company; or

(3) A family affiliate;

(k) Act as proxy in voting any shares of stock which are assets of the trust;

(l) Exercise any powers of control with respect to any interest in a company that is an asset of the trust, including, without limitation, the appointment of officers or directors who are family affiliates; and

(m) Receive reasonable compensation for its services or the services of a family affiliate.

2. A transaction or action authorized pursuant to subsection 1 must:

(a) Be for a fair price, if applicable;

(b) Be in the interest of the beneficiaries; and

(c) Comply *or not be inconsistent* with:

(1) The terms of the trust instrument establishing the fiduciary relationship;

(2) A judgment, decree or court order;

(3) The written consent of each interested person; or

(4) A notice of proposed action issued pursuant to NRS 164.725.

3. Except as otherwise provided in subsection 2, nothing in this section prohibits a family trust company or licensed family trust company from transacting business with or investing in any asset of:

(a) A trust, estate, guardianship or conservatorship for which the family trust company or licensed family trust company is a fiduciary;

(b) A family affiliate; or

(c) Any other company, agent, entity or person for which a conflict of interest may exist.

4. A conflict of interest between the fiduciary duty and personal interest of a family trust company or licensed family trust company does not void a transaction or action that:

(a) Complies with the provisions of this section; or

(b) Occurred before the family trust company or licensed family trust company entered into a fiduciary relationship pursuant to a trust instrument.

5. A transaction by or action of a family trust company or licensed family trust company authorized by this section is not voidable if:

(a) The transaction or action was authorized by the terms of the trust;

(b) The transaction or action was approved by a court or pursuant to a court order;

(c) No interested person commenced a legal action relating to the transaction or action pursuant to subsection 6;

(d) The transaction or action was authorized by a valid consent agreement, release or pursuant to the issuance of a notice of proposed action issued pursuant to NRS 164.725; or

(e) The transaction or action occurred before the family trust company or licensed family trust company entered into a fiduciary relationship pursuant to a trust instrument.

6. A legal action by an interested person alleging that a transaction or action by a family trust company or licensed family trust company is voidable because of the existence of a conflict of interest must be commenced within 1 year after the date on which the interested person discovered, or by the exercise of due diligence should have discovered, the facts in support of his or her claim.

7. Notwithstanding the provisions of any other law to the contrary, a family trust company or licensed family trust company is not required to obtain court approval for any transaction that otherwise complies with the provisions of this section.

8. Notwithstanding the provisions of any other law to the contrary, any transaction between a family trust company or a licensed family trust company and a beneficiary of a trust or the spouse or family member of a beneficiary shall not be presumed to be a conflict of interest or a violation of fiduciary duty.

Sec. 14. NRS 669A.255 is hereby amended to read as follows:

669A.255 1. Except as otherwise provided in subsection 4, a family trust company or licensed family trust company, while acting as the fiduciary of a trust, shall provide an annual report to each ~~[interested person]~~ *beneficiary who is entitled to an account under the terms of the trust or applicable law* for each year of the existence of the trust until the trust is terminated, at which time the *family* trust company shall provide to each ~~[interested person]~~ *such beneficiary* a final report. *The annual report or final report may be in the form of a report as described in subsection 2 or 6, an account as provided in chapter 165 of NRS or any other law applicable to the trust. An annual report or final report provided pursuant to this section is deemed to be an account for the purposes of chapter 165 of NRS.*

2. A report that is provided pursuant to this section must, for the year immediately preceding the report, provide an accounting of:

(a) Each asset and liability of the trust and its current market value or amount, if known;

(b) Each disbursement of income or principal, including the amount of the disbursement and to whom the disbursement was made;

(c) All payments of compensation from any source to the family trust company or licensed family trust company or any other person for services rendered; and

(d) Any other transaction involving an asset of the trust.

3. ~~[An interested person]~~ *A beneficiary* who is entitled to a report pursuant to this section may waive his or her right to the report by submitting a written waiver to the family trust company or licensed family trust company. ~~[An interested person]~~ *Any beneficiary* who waives his or her right to a report may withdraw the waiver by submitting to the family trust company or licensed family trust company a written request for a report.

4. A family trust company or licensed family trust company is not required to provide a report pursuant to this section if the terms of the trust provide ~~[an exception to this requirement.]~~ *otherwise.*

5. A family trust company or licensed family trust company may require ~~[an interested person]~~ *a beneficiary* who is entitled to receive confidential information pursuant to this section to execute a confidentiality agreement before providing the person with any confidential information.

6. In lieu of the information that a trustee is required to provide to ~~[an interested person]~~ *a beneficiary* pursuant to subsection 2, a trustee may provide to ~~[an interested person]~~ *a beneficiary* a statement indicating the accounting period and a financial report of the trust which is prepared by a certified public accountant and which summarizes the information required by paragraphs (a) to (d), inclusive, of subsection 2. Upon request, the trustee shall make all the information used in the preparation of the ~~[financial]~~ *annual or final* report available to each ~~[interested person]~~ *beneficiary* who was provided a copy of the financial report pursuant to this subsection.

7. For the purposes of this chapter, information provided by a trustee to ~~[an interested person]~~ *a beneficiary* pursuant to subsection 6 is deemed an annual report.

8. A trustee may provide an annual report to ~~[an interested person]~~ *a beneficiary* via electronic mail or through a secure Internet website.

9. Notwithstanding the provisions of any other law to the contrary, any beneficiary of a trust administered by a family trust company or licensed family trust company not otherwise entitled to receive ~~[a]~~ an account or annual report under the terms of the trust or applicable law shall have no right to demand ~~[a]~~ an account or annual report of the trust.

10. A family trust company or licensed family trust company acting as trustee shall allocate to income ~~[or principal]~~ the portion of compensation to the trustee and any person providing investment or custodial services to the trustee as determined by the family trust company or licensed family trust company, except as otherwise provided in:

(a) NRS 164.800;

(b) The trust;

(c) A court order;

(d) A nonjudicial settlement agreement; or

(e) A notice of proposed action.

Sec. 15. This act becomes effective upon passage and approval.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 464 makes four changes to Senate Bill No. 384. The amendment: 1) defines beneficiary as provided for in *Nevada Revised Statutes* (NRS); 2) clarifies the fiduciary duties required pursuant to Title 12 or 13 of NRS after October 1, 2015, apply only to a trust or estate administered by a family trust company or licensed family trust company in Nevada after the enactment of such duties; 3) makes technical changes to section 8, section 12 and section 14 of the bill; and 4) changes the effective date to upon passage and approval.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 421.

Bill read second time.

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

Amendment No. 561.

SUMMARY—Makes various changes relating to statewide primary elections. (BDR 24-1148)

AN ACT relating to elections; providing in certain circumstances for a presidential preference primary election to be held in conjunction with the statewide primary election; revising the date of the statewide primary election to ~~[the Tuesday immediately preceding]~~ the last Tuesday in ~~[January]~~ February of each even-numbered year; ~~[requiring the Secretary of State, under certain circumstances and with the approval of the Legislative Commission, to select an earlier date for the statewide primary election;]~~

making corresponding changes to various pre-election deadlines; ~~[revising requirements for the reporting of campaign contributions and expenditures;]~~ establishing requirements for participation by major political parties and candidates in a presidential preference primary election; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1, 2, 18-21 and 32-38 of this bill provide for a statewide presidential preference primary election to be held in conjunction with the statewide primary election in ~~[January]~~ February of a presidential election year. Section 32 provides that a presidential preference primary election is generally governed by the same statutory provisions applicable to the existing statewide primary. Pursuant to section 33, a presidential preference primary election is initiated by the submission of a notice to the Secretary of State from the state central committee of any major political party. After the submission of this notice, the election must be held if two or more presidential candidates of that party timely file declarations of candidacy with the Secretary of State.

Under existing law, the election of delegates at precinct meetings scheduled by the state central committee of each major political party, commonly known as "party caucuses," may be a part of expressing preferences for candidates for the party's nomination for President of the United States. (NRS 293.137) In any year in which a presidential preference primary election is held for the party, section 4 of this bill requires that the precinct meetings not be held until after the presidential preference primary election has been conducted and the results of the election have been certified by the Secretary of State. Sections 5 and 6 of this bill further require that any rule of a party governing the election of delegates at a precinct meeting, the selection of delegates and alternates to a national party convention, or the voting of delegates at the national convention, must reasonably reflect the results of the presidential preference primary election, if one has been held for the party.

Section 7 of this bill changes the date of the statewide primary election from the second Tuesday in June of each even-numbered year to ~~[the Tuesday immediately preceding]~~ the last Tuesday in ~~[January]~~ February of each even-numbered year. To provide an example, if the provisions of this bill had been in effect in 2014, the primary election would have been held on ~~[January 21,]~~ February 25, 2014, instead of June 10, 2014. ~~[If another state in the Western United States (an area defined to encompass Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming) schedules its presidential preference primary election for a date earlier in January than the date otherwise prescribed for the statewide primary election in Nevada, section 7 requires the Secretary of State, with the approval of the Legislative Commission, to select a date for the primary election which is not earlier than January 2 and not a Saturday, Sunday or legal holiday.]~~ As a result of

changing the date of the statewide primary election, sections 3, 8-13, 17, 22 and 23 of this bill amend various other dates relating to elections, such as the date for filing a declaration of candidacy.

Sections 16 and 24 of this bill delete certain existing but obsolete statutory references to the presidential preference primary election.

~~[Various provisions of existing law provide for the submission to the Secretary of State of periodic reports relating to campaign contributions and expenditures. The reporting periods and the deadlines for submitting these reports are based, in part, on the date of the relevant primary election or primary city election. (NRS 294A.120, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220) Sections 25-30 of this bill revise these reporting requirements as they relate to a primary election or primary city election held on or before February 1.]~~

Sections 37 and 42 of this bill provide that the cost of any presidential preference primary election is a charge against the State and must be paid from the Reserve for Statutory Contingency Account in the State General Fund.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:

"Presidential preference primary election" means an election held in presidential election years pursuant to sections 32 to 38, inclusive, of this act.

Sec. 2. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 293.128 is hereby amended to read as follows:

293.128 1. To qualify as a major political party, any organization must, under a common name:

(a) On ~~[January 1 *August*]~~ *September 1 of the year* preceding any primary election, have been designated as a political party on the applications to register to vote of at least 10 percent of the total number of registered voters in this State; or

(b) File a petition with the Secretary of State not later than the last Friday in ~~[February before *September*]~~ *October of the year preceding* any primary election signed by a number of registered voters equal to or more than 10 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

2. If a petition is filed pursuant to paragraph (b) of subsection 1, the names of the voters need not all be on one document, but each document of the petition must be verified by the circulator thereof to the effect that the signers are registered voters of this State according to the circulator's best information and belief and that the signatures are genuine and were signed in

the circulator's presence. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document. The documents which are circulated for signature must then be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last Friday in ~~[February *September]*~~ *October of the year* preceding a primary election.

3. In addition to the requirements set forth in subsection 1, each organization which wishes to qualify as a political party must file with the Secretary of State a certificate of existence which includes the:

(a) Name of the political party;

(b) Names and addresses of its officers;

(c) Names of the members of its executive committee; and

(d) Name of the person who is authorized by the party to act as registered agent in this State.

4. A political party shall file with the Secretary of State an amended certificate of existence within 5 days after any change in the information contained in the certificate.

Sec. 4. NRS 293.135 is hereby amended to read as follows:

293.135 1. ~~[The]~~ *Except as otherwise provided in this subsection, the* county central committee of each major political party in each county shall have a precinct meeting of the registered voters of the party residing in each voting precinct entitled to delegates in the county convention called and held on the dates set for the precinct meeting by the respective state central committees in each year in which a general election is held. *In any year in which a presidential preference primary election is held for the party, the precinct meeting must not be held until after the results of that election are certified by the Secretary of State pursuant to subsection 5 of NRS 293.387.*

2. The meeting must be held in one of the following places in the following order of preference:

(a) Any public building within the precinct if the meeting is for a single precinct, or any public building which is in reasonable proximity to the precincts and will accommodate a meeting of two or more precincts; or

(b) Any private building within the precinct or one of the precincts.

3. The county central committee shall give notice of the meeting by:

(a) Posting in a conspicuous place outside the building where the meeting is to be held; and

(b) Publishing in one or more newspapers of general circulation in the precinct, published in the county, if any are so published,

➥ on the date set for giving notice of the meeting by the respective state central committees.

4. The notice must be printed in conspicuous display advertising format of not less than 10 column inches, and must include the following language, or words of similar import:

Notice to All Voters Registered
IN THE (STATE NAME OF MAJOR POLITICAL PARTY)

Nevada state law requires each major political party, in every year during which a general election is held, to have a precinct meeting held for each precinct. All persons registered in the party and residing in the precinct are entitled to attend the precinct meeting. Delegates to your party's county convention will be elected at the meeting by those in attendance. Set forth below are the time and place at which your precinct meeting will be held, together with the number of delegates to be elected from each precinct. If you wish to participate in the organization of your party for the coming 2 years, attend your precinct meeting.

5. The notice must specify:

(a) The date, time and place of the meeting; and

(b) The number of delegates to the county convention to be chosen at the meeting.

Sec. 5. NRS 293.137 is hereby amended to read as follows:

293.137 1. Promptly at the time and place appointed therefor, the mass meeting must be convened and organized for each precinct. If access to the premises appointed for any such meeting is not available, the meeting may be convened at an accessible place immediately adjacent thereto. The meeting must be conducted openly and publicly and in such a manner that it is freely accessible to any registered voter of the party calling the meeting who resides in the precinct and is desirous of attending the meeting, until the meeting is adjourned. At the meeting, the delegates to which the members of the party residing in the precinct are entitled in the party's county convention must be elected pursuant to the rules of the state central committee of that party. In presidential election years, the ~~[election of delegates may be a part of expressing preferences for candidates for the party's nomination for President of the United States if the rules of the party permit such conduct.]~~ *rules of the state central committee must reasonably reflect the results of the presidential preference primary election, if one has been held for the party.* The result of the election must be certified to the county convention of the party by the chair and the secretary of the meeting upon the forms specified in subsection 3.

2. At the precinct meetings, the delegates and alternates to the party's convention must be elected. If a meeting is not held for a particular precinct at the location specified, that precinct must be without representation at the county convention unless the meeting was scheduled, with proper notice, and no registered voter of the party appeared. In that case, the meeting shall be deemed to have been held and the position of delegate is vacant. If a position of delegate is vacant, it must be filled by the designated alternate, if any. If there is no designated alternate, the vacancy must be filled pursuant to the rules of the party, if the rules of the party so provide, or, if the rules of the party do not so provide, the county central committee shall appoint a delegate from among the qualified members of the party residing in the precinct in

which the vacancy occurred, and the secretary of the county central committee shall certify the appointed delegate to the county convention.

3. The county central committee shall prepare and number serially a number of certificate forms equal to the total number of delegates to be elected throughout the county, and deliver the appropriate number to each precinct meeting. Each certificate must be in duplicate. The original must be given to the elected delegate, and the duplicate transmitted to the county central committee.

4. All duplicates must be delivered to the chair of the preliminary credentials committee of the county convention. Every delegate who presents a certificate matching one of the duplicates must be seated without dispute.

5. Each state central committee shall adopt written rules governing, but not limited to, the following procedures:

(a) The selection, rights and duties of committees of a convention;

(b) Challenges to credentials of delegates; and

(c) Majority and minority reports of committees.

Sec. 6. NRS 293.163 is hereby amended to read as follows:

293.163 1. In presidential election years, on the call of a national party convention, but one set of party conventions and but one state convention shall be held on such respective dates and at such places as the state central committee of the party shall designate. If no earlier dates are fixed, the state convention shall be held 30 days before the date set for the national convention and the county conventions shall be held 60 days before the date set for the national convention.

2. Delegates to such conventions shall be selected in the same manner as prescribed in NRS 293.130 to 293.160, inclusive, and each convention shall have and exercise all of the power granted it under NRS 293.130 to 293.160, inclusive. In addition to such powers granted it, the state convention shall select the necessary delegates and alternates to the national convention of the party and, if consistent with the rules and regulations of the party, shall select the national committeeman and committeewoman of the party from the State of Nevada. *Any rule or regulation of the party governing the election of delegates and alternates to the national convention of the party, or directing the votes of delegates at the national convention, must reasonably reflect the results of the presidential preference primary election, if one has been held for the party.*

Sec. 7. NRS 293.175 is hereby amended to read as follows:

293.175 1. The ~~*[Except as otherwise provided in this subsection, the]*~~ primary election must be held on the ~~[second Tuesday in June *Tuesday immediately preceding the]*~~ *last Tuesday in* ~~*[January]*~~ *February* of each even-numbered year. ~~*[If any other state in the Western United States schedules a presidential preference primary election in that state for a date in January of an even-numbered year that is earlier than the date otherwise prescribed for the primary election by this subsection, the Secretary of State shall, as soon as practicable and with the approval of the Legislative*~~

~~*Commission, select a date for the primary election which is not earlier than January 2 of that year and is not a Saturday, Sunday or legal holiday.]*~~

2. ~~[Candidates]~~ *Except as otherwise provided in this subsection, candidates* for partisan office of a major political party and candidates for nonpartisan office must be nominated at the primary election. *The provisions of this subsection do not apply to candidates for nomination for President of the United States.*

3. Candidates for partisan office of a minor political party must be nominated in the manner prescribed pursuant to NRS 293.171 to 293.174, inclusive.

4. Independent candidates for partisan office must be nominated in the manner provided in NRS 293.200.

5. The provisions of NRS 293.175 to 293.203, inclusive:

(a) Apply to a special election to fill a vacancy, except to the extent that compliance with the provisions is not possible because of the time at which the vacancy occurred.

(b) Do not apply to the nomination of the officers of incorporated cities.

(c) Do not apply to the nomination of district officers whose nomination is otherwise provided for by statute.

~~*[6. As used in this section, "Western United States" means the area of the United States composed of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming.]*~~

Sec. 8. NRS 293.176 is hereby amended to read as follows:

293.176 1. Except as otherwise provided in subsection 2, no person may be a candidate of a major political party for partisan office in any election if the person has changed:

(a) The designation of his or her political party affiliation; or

(b) His or her designation of political party from nonpartisan to a designation of a political party affiliation,

➥ on an application to register to vote in the State of Nevada or in any other state during the time beginning on ~~[December *July]*~~ *August* 31 preceding the closing filing date for that election and ending on the date of that election whether or not the person's previous registration was still effective at the time of the change in party designation.

2. The provisions of subsection 1 do not apply to any person who is a candidate of a political party that is not organized pursuant to NRS 293.171 on the ~~[December *July]*~~ *August* 31 next preceding the closing filing date for the election.

Sec. 9. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, *and section 34 of this act,* a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in ~~[January of the year in which the election is to be held~~ ~~*August]*~~ *September* nor later than 5 p.m. on the second Friday after the first Monday in ~~[January;~~ ~~*August]*~~ *September of the year preceding the primary election;* and

(b) For all other candidates, the first Monday in ~~[March of the year in which the election is to be held~~ ~~*October]*~~ *November* nor later than 5 p.m. on the second Friday after the first Monday in ~~[March.~~ ~~*October]*~~ *November of the year preceding the primary election.*

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

(a) For partisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ……, I, the undersigned ……., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since ~~[December~~ ~~*July]*~~ *August* 31 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and

that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

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

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

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

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada
County of …….

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

.....
(Designation of name)

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

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

.....

Notary Public or other person
authorized to administer an oath

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

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his or her residence; or

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

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

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

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

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

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

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

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored by a court of competent jurisdiction, the filing officer:

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

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of

State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

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

Sec. 10. NRS 293.180 is hereby amended to read as follows:

293.180 1. Ten or more registered voters may file a certificate of candidacy designating any registered voter as a candidate for:

(a) Their major political party's nomination for any partisan elective office ~~[,]~~ *other than President of the United States,* or as a candidate for nomination for any nonpartisan office other than a judicial office, not earlier than the first Monday in ~~[February of the year in which the election is to be held *September]*~~ *October* nor later than 5 p.m. on the first Friday in ~~[March; *October]*~~ *November of the year preceding the year in which the election is to be held;* or

(b) Nomination for a judicial office, not earlier than the first Monday in ~~[December of the year immediately preceding the year in which the election is to be held *July]*~~ *August* nor later than 5 p.m. on the first Friday in ~~[January *August]*~~ *September* of the year *preceding the year* in which the election is to be held.

2. When the certificate has been filed, the officer in whose office it is filed shall notify the person named in the certificate. If the person named in the certificate files an acceptance of candidacy and pays the required fee, as provided by law, he or she is a candidate in the primary election in like manner as if he or she had filed a declaration of candidacy.

3. If a certificate of candidacy relates to a partisan office, all of the signers must be of the same major political party as the candidate designated.

Sec. 11. NRS 293.205 is hereby amended to read as follows:

293.205 1. Except as otherwise provided in NRS 293.208, on or before the third Wednesday in ~~[March of every even-numbered *October]*~~ *November of each odd-numbered* year, the county clerk shall establish election precincts, define the boundaries thereof, abolish, alter, consolidate and designate precincts as public convenience, necessity and economy may require.

2. The boundaries of each election precinct must follow visible ground features or extensions of visible ground features, except where the boundary coincides with the official boundary of the State or a county or city.

3. Election precincts must be composed only of contiguous territory.

4. As used in this section, "visible ground feature" includes a street, road, highway, river, stream, shoreline, drainage ditch, railroad right-of-way or any other physical feature which is clearly visible from the ground.

Sec. 12. NRS 293.206 is hereby amended to read as follows:

293.206 1. On or before the last day in ~~[March of every even-numbered *October]*~~ *November of each odd-numbered* year, the county clerk shall provide the Secretary of State and the Director of the Legislative Counsel Bureau with a copy or electronic file of a map showing the boundaries of all election precincts in the county.

2. If the Secretary of State determines that the boundaries of an election precinct do not comply with the provisions of NRS 293.205, the Secretary of State must provide the county clerk with a written statement of noncompliance setting forth the reasons the precinct is not in compliance. Within 15 days after receiving the notice of noncompliance, the county clerk shall make any adjustments to the boundaries of the precinct which are required to bring the precinct into compliance with the provisions of NRS 293.205 and shall submit a corrected copy or electronic file of the precinct map to the Secretary of State and the Director of the Legislative Counsel Bureau.

3. If the initial or corrected election precinct map is not filed as required pursuant to this section or the county clerk fails to make the necessary changes to the boundaries of an election precinct pursuant to subsection 2, the Secretary of State may establish appropriate precinct boundaries in compliance with the provisions of NRS 293.205 to 293.213, inclusive. If the Secretary of State revises the map pursuant to this subsection, the Secretary of State shall submit a copy or electronic file of the revised map to the Director of the Legislative Counsel Bureau and the appropriate county clerk.

4. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 13. NRS 293.208 is hereby amended to read as follows:

293.208 1. Except as otherwise provided in subsections 2, 3 and 5 and in NRS 293.206, no election precinct may be created, divided, abolished or consolidated, or the boundaries thereof changed, during the period between the third Wednesday in ~~[March *October]*~~ *November* of any year whose last digit is ~~[6]~~ *5* and the time when the Legislature has been redistricted in a year whose last digit is 1, unless the creation, division, abolishment or consolidation of the precinct, or the change in boundaries thereof, is:

(a) Ordered by a court of competent jurisdiction;

(b) Required to meet objections to a precinct by the Attorney General of the United States pursuant to the Voting Rights Act of 1965, 42 U. S. C. §§ 1971 and 1973 et seq., and any amendments thereto;

(c) Required to comply with subsection 2 of NRS 293.205;

(d) Required by the incorporation of a new city; or

(e) Required by the creation of or change in the boundaries of a special district.

➥ As used in this subsection, "special district" means any general improvement district or any other quasi-municipal corporation organized under the local improvement and service district laws of this State as enumerated in title 25 of NRS which is required by law to hold elections or any fire protection district which is required by law to hold elections.

2. If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

3. A new election precinct may be established at any time if it lies entirely within the boundaries of any existing precinct.

4. If a change in the boundaries of an election precinct is made pursuant to this section during the time specified in subsection 1, the county clerk must:

(a) Within 15 days after the change to the boundary of a precinct is established by the county clerk or ordered by a court, send to the Director of the Legislative Counsel Bureau and the Secretary of State a copy or electronic file of a map showing the new boundaries of the precinct; and

(b) Maintain in his or her office an index providing the name of the precinct and describing all changes which were made, including any change in the name of the precinct and the name of any new precinct created within the boundaries of an existing precinct.

5. Cities of population categories two and three are exempt from the provisions of subsection 1.

6. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 14. NRS 293.209 is hereby amended to read as follows:

293.209 A political subdivision of this State shall not create, divide, change the boundaries of, abolish or consolidate an election district ~~[after]~~ *at any time during the period between* the first day of filing by candidates ~~[during any year in which a]~~ *and the date of the* general election or city general election ~~[is held]~~ for that election district. This section does not prohibit a political subdivision from annexing territory ~~[in a year in which a general election or city general election is held for that election district.]~~ *during that period.*

Sec. 15. NRS 293.260 is hereby amended to read as follows:

293.260 1. *Except as otherwise provided in subsection 2:*

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

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

~~[3.]~~ *(c)* If only one major political party has candidates for a particular office and a minor political party has nominated a candidate for the office or

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

~~[4.]~~ *(d)* If only one major political party has candidates for a particular office and no minor political party has nominated a candidate for the office and no independent candidate has filed for the office:

~~[(a)]~~ *(1)* If there are more candidates than twice the number to be elected to the office, the names of the candidates must appear on the ballot for a primary election. Except as otherwise provided in this ~~[paragraph,]~~ *subparagraph,* the candidates of that party who receive the highest number of votes in the primary election, not to exceed twice the number to be elected to that office at the general election, must be declared the nominees for the office. If only one candidate is to be elected to the office and a candidate receives a majority of the votes in the primary election for that office, that candidate must be declared the nominee for that office and his or her name must be placed on the ballot for the general election.

~~[(b)]~~ *(2)* If there are no more than twice the number of candidates to be elected to the office, the candidates must, without a primary election, be declared the nominees for the office.

~~[5.]~~ *(e)* Where no more than the number of candidates to be elected have filed for nomination for:

~~[(a)]~~ *(1)* Any partisan office, the office of judge of the Court of Appeals or the office of justice of the Supreme Court, the names of those candidates must be omitted from all ballots for a primary election and placed on all ballots for a general election;

~~[(b)]~~ *(2)* Any nonpartisan office, other than the office of justice of the Supreme Court, office of judge of the Court of Appeals or the office of member of a town advisory board, the names of those candidates must appear on the ballot for a primary election unless the candidates were nominated pursuant to subsection 2 of NRS 293.165. If a candidate receives one or more votes at the primary election, the candidate must be declared elected to the office and his or her name must not be placed on the ballot for the general election. If a candidate does not receive one or more votes at the primary election, his or her name must be placed on the ballot for the general election; and

~~[(c)]~~ *(3)* The office of member of a town advisory board, the candidate must be declared elected to the office and no election must be held for that office.

~~[6.]~~ *(f)* If there are more candidates than twice the number to be elected to a nonpartisan office, the names of the candidates must appear on the ballot for a primary election. Those candidates who receive the highest number of

votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office.

2. The provisions of subsection 1 do not apply to candidates for nomination for President of the United States.

Sec. 16. NRS 293.3604 is hereby amended to read as follows:

293.3604 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for early voting by personal appearance in an election *:* ~~[other than a presidential preference primary election:]~~

1. At the close of each voting day, the election board shall:

(a) Prepare and sign a statement for the polling place. The statement must include:

(1) The title of the election;

(2) The number of the precinct or voting district;

(3) The number which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;

(4) The number of ballots voted on the mechanical recording device for that day; and

(5) The number of signatures in the roster for early voting for that day.

(b) Secure:

(1) The ballots pursuant to the plan for security required by NRS 293.3594; and

(2) Each mechanical voting device in the manner prescribed by the Secretary of State pursuant to NRS 293.3594.

2. At the close of the last voting day, the county clerk shall deliver to the ballot board for early voting:

(a) The statements for all polling places for early voting;

(b) The voting rosters used for early voting;

(c) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and

(d) Any other items as determined by the county clerk.

3. Upon receipt of the items set forth in subsection 2 at the close of the last voting day, the ballot board for early voting shall:

(a) Sort the items by precinct or voting district;

(b) Count the number of ballots voted by precinct or voting district;

(c) Account for all ballots on an official statement of ballots; and

(d) Place the items in the container provided to transport those items to the central counting place and seal the container with a numbered seal. The official statement of ballots must accompany the items to the central counting place.

Sec. 17. NRS 293.368 is hereby amended to read as follows:

293.368 1. Except as otherwise provided in subsection 4 of NRS 293.165, if a candidate on the ballot at a primary election dies after 5 p.m. of the second Tuesday in ~~[April, *November*]~~ *December of the year preceding the election,* the deceased candidate's name must remain on the

ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he or she was a candidate, except as otherwise provided in subsection 2 of NRS 293.165, the deceased candidate shall be deemed nominated and the vacancy in the nomination must be filled as provided in NRS 293.165 or 293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.

3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. on the fourth Friday in June of the year in which the general election is held, the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, the deceased candidate shall be deemed elected and the office to which he or she was elected shall be deemed vacant at the beginning of the term for which he or she was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 18. NRS 293.387 is hereby amended to read as follows:

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

2. In making its canvass, the board shall:

(a) Note separately any clerical errors discovered; and

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

3. The county clerk shall, as soon as the result is declared, enter upon the records of the board an abstract of the result, which must contain the number of votes cast for each candidate. The board, after making the abstract, shall cause the county clerk to certify the abstract and, by an order made and entered in the minutes of its proceedings, to make:

(a) A copy of the certified abstract; and

(b) A mechanized report of the abstract in compliance with regulations adopted by the Secretary of State,

➥ and transmit them to the Secretary of State not more than 7 working days after the election.

4. The Secretary of State shall, immediately after any primary election, compile the returns for all candidates voted for in more than one county. The Secretary of State shall make out and file in his or her office an abstract thereof, and shall certify to the county clerk of each county the name of each

person nominated, and the name of the office for which the person is nominated.

5. The Secretary of State shall, immediately after any presidential preference primary election, compile the returns for all the candidates. The Secretary of State shall make out and file in his or her office an abstract thereof, and shall certify to the state central committee and, if necessary to comply with the rules and regulations of the party, to the national committee of each major political party for which a presidential preference primary election was held, the number of votes received by each candidate.

Sec. 19. NRS 293.400 is hereby amended to read as follows:

293.400 1. If, after the completion of the canvass of the returns of any election, two or more persons receive an equal number of votes, which is sufficient for the election of one or more but fewer than all of them to the office, the person or persons elected must be determined as follows:

(a) In a general election for a United States Senator, Representative in Congress, state officer who is elected statewide or by district, district judge, or district officer whose district includes area in more than one county, the Legislature shall, by joint vote of both houses, elect one of those persons to fill the office.

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

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

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

3. The right to a recount extends to all candidates in case of a tie.

Sec. 20. NRS 293.407 is hereby amended to read as follows:

293.407 1. A candidate at any election, or any registered voter of the appropriate political subdivision, may contest the election of any candidate, except for the office of United States Senator or Representative in Congress.

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

(a) The name of the contestant and *, unless the contestant is a candidate in a presidential preference primary election,* that the contestant is a registered voter of the political subdivision in which the election to be contested or part of it was held;

(b) The name of the defendant;

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

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

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

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

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

Sec. 21. NRS 293.417 is hereby amended to read as follows:

293.417 1. If, in any contest, the court finds from the evidence that a person other than the defendant received the greatest number of legal votes, the court, as a part of the judgment, shall declare that person elected or nominated.

2. The person declared nominated or elected by the court is entitled to a certificate of nomination or election. If a certificate has not been issued to that person, the county clerk, city clerk or Secretary of State shall execute and deliver to the person a certificate of election or a certificate of nomination.

3. If a certificate of election or nomination to the same office has been issued to any person other than the one declared elected by the court, that certificate must be annulled by the judgment of the court.

4. Whenever an election is annulled or set aside by the court, and the court does not declare some candidate elected, the certificate of election or the commission, if any has been issued, is void and the office is vacant.

5. In a contest over a presidential preference primary election, the Secretary of State shall correct, in accordance with the judgment of the court, any certification previously issued pursuant to subsection 5 of NRS 293.387. If such a certification has not been issued, the Secretary of State shall issue the certification in accordance with the judgment.

Sec. 22. NRS 293.481 is hereby amended to read as follows:

293.481 1. Except as otherwise provided in subsection 3, every governing body of a political subdivision, public or quasi-public corporation,

or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

(1) A copy of the question, including an explanation of the question; and

(2) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 295.230.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in ~~[March *October*]~~ *November of the year* preceding the election:

(1) A copy of the question, including an explanation of the question; and

(2) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 295.230.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question; and

(2) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 295.230.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question; and

(2) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 295.230.

2. An explanation of a question required to be provided to a county clerk pursuant to subsection 1 must be written in easily understood language and include a digest. The digest must include a concise and clear summary of any existing laws directly related to the measure proposed by the question and a

summary of how the measure proposed by the question adds to, changes or repeals such existing laws. For a measure that creates, generates, increases or decreases any public revenue in any form, the first paragraph of the digest must include a statement that the measure creates, generates, increases or decreases, as applicable, public revenue.

3. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 295.230, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

4. A question that is submitted pursuant to subsection 1 may be withdrawn if the governing body provides notification to each of the county or city clerks within the designated territory of its decision to withdraw the particular question on or before the same dates specified for submission pursuant to paragraph (a), (b), (c) or (d) of subsection 1, as appropriate.

5. A county or city clerk:

(a) Shall assign a unique identification number to a question submitted pursuant to this section; and

(b) May charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and description of the anticipated financial effect on the ballot.

Sec. 23. NRS 293B.354 is hereby amended to read as follows:

293B.354 1. The county clerk shall, not later than ~~[April *November]*~~ *December* 15 of ~~[each]~~ *the* year *preceding the year* in which a general election is held, submit to the Secretary of State for approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

2. The city clerk shall, not later than January 1 of each year in which a general city election is held, submit to the Secretary of State for approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.

3. Each plan must include:

(a) The location of the central counting place and of each polling place and receiving center;

(b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;

(c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and

(d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county or city clerk considers appropriate.

Sec. 24. NRS 293C.3604 is hereby amended to read as follows:

293C.3604 If ballots which are voted on a mechanical recording device which directly records the votes electronically are used during the period for early voting by personal appearance in an election *:* ~~[other than a presidential preference primary election:]~~

1. At the close of each voting day, the election board shall:

(a) Prepare and sign a statement for the polling place. The statement must include:

(1) The title of the election;

(2) The number of the precinct or voting district;

(3) The number which identifies the mechanical recording device and the storage device required pursuant to NRS 293B.084;

(4) The number of ballots voted on the mechanical recording device for that day; and

(5) The number of signatures in the roster for early voting for that day.

(b) Secure:

(1) The ballots pursuant to the plan for security required by NRS 293C.3594; and

(2) Each mechanical voting device in the manner prescribed by the Secretary of State pursuant to NRS 293C.3594.

2. At the close of the last voting day, the city clerk shall deliver to the ballot board for early voting:

(a) The statements for all polling places for early voting;

(b) The voting rosters used for early voting;

(c) The storage device required pursuant to NRS 293B.084 from each mechanical recording device used during the period for early voting; and

(d) Any other items as determined by the city clerk.

3. Upon receipt of the items set forth in subsection 2 at the close of the last voting day, the ballot board for early voting shall:

(a) Sort the items by precinct or voting district;

(b) Count the number of ballots voted by precinct or voting district;

(c) Account for all ballots on an official statement of ballots; and

(d) Place the items in the container provided to transport those items to the central counting place and seal the container with a number seal. The official statement of ballots must accompany the items to the central counting place.

Sec. 25. ~~[NRS 294A.120 is hereby amended to read as follows:~~

~~294A.120 1. Every candidate for office at a primary election or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report:~~

~~(a) Each contribution in excess of $100 received during the period;~~

~~(b) Contributions received during the period from a contributor which cumulatively exceed $100; and~~

~~(c) The total of all contributions received during the period which are $100 or less and which are not otherwise required to be reported pursuant to paragraph (b).~~

~~➥ The provisions of this subsection apply to the candidate beginning the year of the general election for that office through the year immediately preceding the next general election for that office.~~

~~2. [Every] *Except as otherwise provided in subsection 3, every* candidate for office at a primary election or general election shall, not later than:~~

~~(a) Twenty-one days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 25 days before the primary election;~~

~~(b) Four days before the primary election for that office, for the period from 24 days before the primary election through 5 days before the primary election;~~

~~(c) Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and~~

~~(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,~~

~~➥ report each contribution described in subsection 1 received during the period.~~

~~*3. If the primary election for the office for which he or she is a candidate is held:*~~

~~*(a) On or before January 6, the candidate is not required to submit any report pursuant to paragraph (a) or (b) of subsection 2.*~~

~~*(b) After January 6 but on or before February 1, every candidate who is required to submit reports pursuant to subsection 2 shall, in lieu of the reports required by paragraphs (a) and (b) of subsection 2, submit a single report not later than 4 days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 5 days before the primary election.*~~

~~*4.* Except as otherwise provided in subsections [4] *5* and [5] *6* and NRS 294A.223, every candidate for office at a special election shall, not later than:~~

~~(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the candidate's nomination through 5 days before the beginning of early voting by personal appearance for the special election;~~

~~(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and~~

~~(c) Thirty days after the special election, for the remaining period through the date of the special election,~~

~~" report each contribution described in subsection 1 received during the period.~~

~~[4.]~~ *5. Except as otherwise provided in subsection* ~~[5]~~ *6 and* ~~NRS 294A.223, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than:~~

~~(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate the petition for recall is filed pursuant to NRS 306.015 through the 5 days before the beginning of early voting by personal appearance for the special election;~~

~~(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and~~

~~(c) Thirty days after the special election, for the remaining period through the date of the special election,~~

~~" report each contribution described in subsection 1 received during the period.~~

~~[5.]~~ *6. If a district court determines that a petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than 30 days after the district court orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each contribution described in subsection 1 received during the period.*

~~[6.]~~ *7. Except as otherwise provided in NRS 294A.3733, reports of contributions must be filed electronically with the Secretary of State.*

~~[7.]~~ *8. A report shall be deemed to be filed on the date that it was received by the Secretary of State.*

~~[8.]~~ *9. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.~~] (Deleted by amendment.)

Sec. 26. ~~[NRS 294A.140 is hereby amended to read as follows:~~

~~294A.140 1. The provisions of this section apply to:~~

~~(a) Every person who makes an independent expenditure in excess of $1,000; and~~

~~(b) Every committee for political action, political party and committee sponsored by a political party which receives contributions in excess of $1,000 or makes an expenditure for or against a candidate for office or a group of such candidates.~~

~~2. Every person, committee and political party described in subsection 1 shall, not later than January 15 of each year that the provisions of this subsection apply, for the period from January 1 of the previous year through December 31 of the previous year, report each contribution in excess of $1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000. The provisions of this subsection apply to the person, committee or political party beginning the year of the general election for that office through the year immediately preceding the next general election for that office.~~

~~3. [Every] *Except as otherwise provided in subsection 4, every* person, committee and political party described in subsection 1 shall, not later than:~~

~~(a) Twenty-one days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 25 days before the primary election;~~

~~(b) Four days before the primary election for that office, for the period from 24 days before the primary election through 5 days before the primary election;~~

~~(c) Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and~~

~~(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,~~

~~" report each contribution in excess of $1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000.~~

~~*4. If the primary election for the office for which the candidate or a candidate in the group of candidates seeks election is held:*~~

~~*(a) On or before January 6, a person, committee or political party is not required to submit any report pursuant to paragraph (a) or (b) of subsection 3.*~~

~~*(b) After January 6 but on or before February 1, every person, committee or political party which is required to submit reports pursuant to subsection 3 shall, in lieu of the reports required by paragraphs (a) and (b) of subsection 3, submit a single report not later than 4 days before the primary election, for the period from the January 1 immediately preceding the primary election through 5 days before the primary election.*~~

~~5. Except as otherwise provided in subsections [5] *6* and [6] *7* and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election or for or against a group of such candidates shall, not later than:~~

~~(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the nomination of the candidate~~

~~through 5 days before the beginning of early voting by personal appearance for the special election;~~

~~(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and~~

~~(c) Thirty days after the special election, for the remaining period through the date of the special election,~~

~~→ report each contribution in excess of $1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000.~~

~~[5.] 6. Except as otherwise provided in subsection [6] 7, and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of candidates for offices at such special elections shall, not later than:~~

~~(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate a petition to recall is filed pursuant to NRS 306.015 through 5 days before the beginning of early voting by personal appearance for the special election;~~

~~(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and~~

~~(c) Thirty days after the special election, for the remaining period through the date of the special election,~~

~~→ report each contribution in excess of $1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000.~~

~~[6.] 7. If a district court determines that a petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of candidates for offices at such a special election shall, not later than 30 days after the district court orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each contribution in excess of $1,000 received during the period and contributions received during the period which cumulatively exceed $1,000.~~

~~[7.] 8. Except as otherwise provided in NRS 294A.3737, the reports of contributions required pursuant to this section must be filed electronically with the Secretary of State.~~

~~[8.] *9.* A report shall be deemed to be filed on the date that it was received by the Secretary of State.~~

~~[9.] *10.* Every person, committee and political party described in this section shall file a report required by this section even if the person, committee or political party receives no contributions.~~

~~[10.] *11.* The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $1,000 and contributions which a contributor has made cumulatively in excess of $1,000 since the beginning of the current reporting period.~~ (Deleted by amendment.)

Sec. 27. ~~[NRS 294A.150 is hereby amended to read as follows:~~

~~294A.150 1. Every committee for political action that advocates the passage or defeat of a question or group of questions on the ballot at a primary election or general election shall, not later than January 15 of each year that the provisions of this subsection apply to the committee for political action, for the period from January 1 of the previous year through December 31 of the previous year, report each contribution in excess of $1,000 received during that period and contributions received during the period from a contributor which cumulatively exceed $1,000. The provisions of this subsection apply to the committee for political action:~~

~~(a) Each year in which an election is held for each question for which the committee for political action advocates passage or defeat; and~~

~~(b) The year after the year described in paragraph (a).~~

~~2. [A] *Except as otherwise provided in subsection 3, a* committee for political action described in subsection 1 shall, not later than:~~

~~(a) Twenty-one days before the primary election, for the period from the January 1 immediately preceding the primary election through 25 days before the primary election;~~

~~(b) Four days before the primary election, for the period from 24 days before the primary election through 5 days before the primary election;~~

~~(c) Twenty-one days before the general election, for the period from 4 days before the primary election through 25 days before the general election; and~~

~~(d) Four days before the general election, for the period from 24 days before the general election through 5 days before the general election,~~

~~→ report each contribution in excess of $1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000.~~

~~*3. If the primary election is held:*~~

~~*(a) On or before January 6, a committee for political action is not required to submit any report pursuant to paragraph (a) or (b) of subsection 2.*~~

~~*(b) After January 6 but on or before February 1, every committee for political action which is required to submit reports pursuant to subsection 2 shall, in lieu of the reports required by paragraphs (a) and (b) of*~~

~~*subsection 2, submit a single report not later than 4 days before the primary election, for the period from the January 1 immediately preceding the primary election through 5 days before the primary election.*~~

~~*4.* Except as otherwise provided in NRS 294A.223, every committee for political action that advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:~~

~~(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date that the question qualified for the ballot through 5 days before the beginning of early voting by personal appearance for the special election;~~

~~(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and~~

~~(c) Thirty days after the special election, for the remaining period through the date of the special election,~~

~~report each contribution in excess of $1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000.~~

~~[4.] *5.* The provisions of this section apply to a committee for political action even if the question or group of questions that the committee for political action advocates the passage or defeat of is removed from the ballot by a court order or otherwise does not appear on the ballot at a primary, general or special election.~~

~~[5.] *6.* Except as otherwise provided in NRS 294A.3737, the reports required pursuant to this section must be filed electronically with the Secretary of State.~~

~~[6.] *7.* A report shall be deemed to be filed on the date that it was received by the Secretary of State.~~

~~[7.] *8.* If the committee for political action is advocating passage or defeat of a group of questions, the reports must be itemized by question or petition.]~~ (Deleted by amendment.)

Sec. 28. ~~[NRS 294A.200 is hereby amended to read as follows:~~

~~294A.200 1. Every candidate for office at a primary election or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report:~~

~~(a) Each of the campaign expenses in excess of $100 incurred during the period;~~

~~(b) Each amount in excess of $100 disposed of pursuant to NRS 294A.160 or subsection 3 of NRS 294A.286 during the period;~~

~~(c) The total of all campaign expenses incurred during the period which are $100 or less; and~~

~~(d) The total of all amounts disposed of during the period pursuant to NRS 294A.160 or subsection 3 of NRS 294A.286 which are $100 or less.~~

~~2. The provisions of subsection 1 apply to the candidate:~~

~~(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and~~

~~(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 or 294A.286.~~

~~3. [Every] *Except as otherwise provided in subsection 4, every* candidate for office at a primary election or general election shall, not later than:~~

~~(a) Twenty-one days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 25 days before the primary election;~~

~~(b) Four days before the primary election for that office, for the period from 24 days before the primary election through 5 days before the primary election;~~

~~(c) Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and~~

~~(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,~~

~~* report each of the campaign expenses described in subsection 1 incurred during the period.~~

~~*4. If the primary election for the office for which he or she is a candidate is held:*~~

~~*(a) On or before January 6, the candidate is not required to submit any report pursuant to paragraph (a) or (b) of subsection 3.*~~

~~*(b) After January 6 but on or before February 1, every candidate who is required to submit reports pursuant to subsection 3 shall, in lieu of the reports required by paragraphs (a) and (b) of subsection 3, submit a single report not later than 4 days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 5 days before the primary election.*~~

~~5. Except as otherwise provided in subsections [5] 6 and [6] 7 and NRS 294A.223, every candidate for office at a special election shall, not later than:~~

~~(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the candidate's nomination through 5 days before the beginning of early voting by personal appearance for the special election;~~

~~(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and~~

~~(c) Thirty days after the special election, for the remaining period through the date of the special election,~~

~~* report each of the campaign expenses described in subsection 1 incurred during the period.~~

~~[5.] 6. Except as otherwise provided in subsection [6] 7 and NRS 294A.223, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than:~~

~~(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate the petition for recall is filed pursuant to NRS 306.015 through 5 days before the beginning of early voting by personal appearance for the special election;~~

~~(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and~~

~~(c) Thirty days after the special election, for the remaining period through the date of the special election,~~

~~* report each of the campaign expenses described in subsection 1 incurred during the period.~~

~~[6.] 7. If a district court determines that a petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every candidate for office at a special election to determine whether a public officer will be recalled shall, not later than 30 days after the district orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each of the campaign expenses described in subsection 1 incurred during the period.~~

~~[7.] 8. Except as otherwise provided in NRS 294A.3733, reports of campaign expenses must be filed electronically with the Secretary of State.~~

~~[8.] 9. A report shall be deemed to be filed on the date that it was received by the Secretary of State.]~~ (Deleted by amendment.)

Sec. 29. ~~[NRS 294A.210 is hereby amended to read as follows:~~

~~294A.210 1. The provisions of this section apply to:~~

~~(a) Every person who makes an independent expenditure in excess of $1,000; and~~

~~(b) Every committee for political action, political party and committee sponsored by a political party which receives contributions in excess of $1,000 or makes an expenditure for or against a candidate for office or a group of such candidates.~~

~~2. Every person, committee and political party described in subsection 1 shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee or political party, for the period from January 1 of the previous year through December 31 of the previous year, report each independent expenditure or other expenditure, as applicable, made during the period in excess of $1,000 and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed $1,000. The provisions of this subsection apply to the person, committee or political party beginning the year of the general~~

~~election for that office through the year immediately preceding the next general election for that office.~~

~~3. [Every] *Except as otherwise provided in subsection 4, every* person, committee and political party described in subsection 1 shall, not later than:~~

~~(a) Twenty-one days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 25 days before the primary election;~~

~~(b) Four days before the primary election for that office, for the period from 24 days before the primary election through 5 days before the primary election;~~

~~(c) Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and~~

~~(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,~~

~~→ report each independent expenditure or other expenditure, as applicable, in excess of $1,000 made during the period and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed $1,000.~~

~~*4. If the primary election for the office for which the candidate or a candidate in the group of candidates seeks election is held:*~~

~~*(a) On or before January 6, a person, committee or political party is not required to submit any report pursuant to paragraph (a) or (b) of subsection 3.*~~

~~*(b) After January 6 but on or before February 1, every person, committee or political party which is required to submit reports pursuant to subsection 3 shall, in lieu of the reports required by paragraphs (a) and (b) of subsection 3, submit a single report not later than 4 days before the primary election, for the period from the January 1 immediately preceding the primary election through 5 days before the primary election.*~~

~~5. Except as otherwise provided in subsections [5] *6* and [6] *7* and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election or for or against a group of such candidates shall, not later than:~~

~~(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the nomination of the candidate through 5 days before the beginning of early voting by personal appearance for the special election;~~

~~(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and~~

~~(c) Thirty days after the special election, for the remaining period through the date of the special election,~~

~~➥ report each independent expenditure or other expenditure, as applicable, in excess of $1,000 made during the period and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed $1,000.~~

~~[5.] 6. Except as otherwise provided in subsection [6] 7 and NRS 294A.223, every person, committee and political party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of such candidates shall, not later than:~~

~~(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the notice of intent to circulate the petition for recall is filed pursuant to NRS 306.015 through 5 days before the beginning of early voting by personal appearance for the special election;~~

~~(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and~~

~~(c) Thirty days after the special election, for the remaining period through the date of the special election,~~

~~➥ report each independent expenditure or other expenditure, as applicable, in excess of $1,000 made during the period and independent expenditures or other expenditures, as applicable, made during the period to one recipient which cumulatively exceed $1,000.~~

~~[6.] 7. If a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, every person, committee and party described in subsection 1 which makes an independent expenditure or other expenditure, as applicable, for or against a candidate for office at a special election to determine whether a public officer will be recalled or for or against a group of such candidates shall, not later than 30 days after the district court orders the officer with whom the petition is filed to cease any further proceedings regarding the petition, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's order, report each independent expenditure or other expenditure, as applicable, in excess of $1,000 made during the period and independent expenditures or expenditures, as applicable, made during the period to one recipient which cumulatively exceed $1,000.~~

~~[7.] 8. Independent expenditures and other expenditures made within the State or made elsewhere but for use within the State, including independent expenditures and other expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.~~

~~[8.] 9. Except as otherwise provided in NRS 294A.3737, the reports must be filed electronically with the Secretary of State.~~

~~[9.] *10.* If an independent expenditure or other expenditure, as applicable, is made for or against a group of candidates, the reports must be itemized by the candidate.~~

~~[10.] *11.* A report shall be deemed to be filed on the date that it was received by the Secretary of State. Every person, committee or political party described in subsection 1 shall file a report required by this section even if the person, committee or political party receives no contributions.]~~ (Deleted by amendment.)

Sec. 30. ~~[NRS 294A.220 is hereby amended to read as follows:~~

~~294A.220 1. Every committee for political action that advocates the passage or defeat of a question or group of questions on the ballot at a primary election or general election shall, not later than January 15 of each year that the provisions of this subsection apply to the committee for political action, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period for or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 and such expenditures made during the period to one recipient that cumulatively exceed $1,000. The provisions of this subsection apply to the committee for political action:~~

~~(a) Each year in which an election is held for a question for which the committee for political action advocates passage or defeat; and~~

~~(b) The year after the year described in paragraph (a).~~

~~2. [A] *Except as otherwise provided in subsection 3, a* committee for political action described in subsection 1 shall, not later than:~~

~~(a) Twenty-one days before the primary election, for the period from the January 1 immediately preceding the primary election through 25 days before the primary election;~~

~~(b) Four days before the primary election, for the period from 24 days before the primary election through 5 days before the primary election;~~

~~(c) Twenty-one days before the general election, for the period from 4 days before the primary election through 25 days before the general election; and~~

~~(d) Four days before the general election, for the period from 24 days before the general election through 5 days before the general election,~~

~~→ report each expenditure made during the period for or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 and such expenditures made during the period to one recipient that cumulatively exceed $1,000.~~

~~*3. If the primary election is held:*~~

~~*(a) On or before January 6, a committee for political action is not required to submit any report pursuant to paragraph (a) or (b) of subsection 2.*~~

~~*(b) After January 6 but on or before February 1, every committee for political action which is required to submit reports pursuant to subsection 2 shall, in lieu of the reports required by paragraphs (a) and (b) of*~~

~~*subsection 2, submit a single report not later than 4 days before the primary election, for the period from the January 1 immediately preceding the primary election through 5 days before the primary election.*~~

~~*4.* Except as otherwise provided in NRS 294A.223, every committee for political action that advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:~~

~~(a) Four days before the beginning of early voting by personal appearance for the special election, for the period from the date the question qualified for the ballot through 5 days before the beginning of early voting by personal appearance for the special election;~~

~~(b) Four days before the special election, for the period from 4 days before the beginning of early voting by personal appearance for the special election through 5 days before the special election; and~~

~~(c) Thirty days after the special election, for the remaining period through the date of the special election,~~

~~report each expenditure made during the period for or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 and such expenditures made during the period to one recipient that cumulatively exceed $1,000.~~

~~[4.] *5.* Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.~~

~~[5.] *6.* The provisions of this section apply to a committee for political action even if the question or group of questions that the committee for political action advocates the passage or defeat of is removed from the ballot by a court order or otherwise does not appear on the ballot at a primary, general or special election.~~

~~[6.] *7.* Except as otherwise provided in NRS 294A.3737, reports required pursuant to this section must be filed electronically with the Secretary of State.~~

~~[7.] *8.* If an expenditure is made for or against a group of questions, the reports must be itemized by question or petition.~~

~~[8.] *9.* A report shall be deemed to be filed on the date that it was received by the Secretary of State.~~] (Deleted by amendment.)

Sec. 31. Chapter 298 of NRS is hereby amended by adding thereto the provisions set forth as sections 32 to 38, inclusive, of this act.

Sec. 32. *Except as otherwise provided in sections 32 to 38, inclusive, of this act or other specific statute, the provisions of chapters 293 and 293B of NRS relating to a primary election also govern a presidential preference primary election.*

Sec. 33. *1. Not later than 5 p.m. on ~~[September 30]~~ October 31 of the year preceding a presidential election year, the state central committee of each major political party shall notify the Secretary of State, in writing,*

whether the party will participate in a presidential preference primary election.

2. If the Secretary of State receives a notice pursuant to subsection 1 that a major political party will participate in a presidential preference primary election and:

(a) More than one candidate of that party files a declaration of candidacy pursuant to section 34 of this act, a presidential preference primary election for that party must be held in conjunction with the primary election held pursuant to NRS 293.175.

(b) Only one candidate of that party files a declaration of candidacy pursuant to section 34 of this act, a presidential preference primary election for that party must not be held and that candidate must be certified by the Secretary of State in the manner provided in subsection 5 of NRS 293.387.

Sec. 34. *1. A person who wishes to be a candidate for nomination for President of the United States for a major political party must, not earlier than ~~[October]~~ November 1 and not later than 5 p.m. on ~~[October]~~ November 15 of the year preceding a presidential election year, file with the Secretary of State a declaration of candidacy in the form prescribed by the Secretary of State.*

2. A person who files a declaration of candidacy pursuant to this section is not required to file a declaration of candidacy or an acceptance of candidacy pursuant to NRS 293.177.

Sec. 35. *The Secretary of State shall include in the certified list forwarded to each county clerk pursuant to NRS 293.187 the name and mailing address of each person whose name must appear on the primary ballot for the presidential preference primary election.*

Sec. 36. *1. The names of the candidates for nomination for President of the United States for each major political party for which a presidential preference primary election is held must be printed on the primary ballot for the election.*

2. Each voter registered with a party for which a presidential preference primary election is held may vote for one person to be the nominee for President of the United States for that party.

Sec. 37. *If a presidential preference primary election is held pursuant to sections 32 to 38, inclusive, of this act, the cost of the election is a charge against the State and must be paid from the Reserve for Statutory Contingency Account upon recommendation by the Secretary of State and approval by the State Board of Examiners.*

Sec. 38. *The Secretary of State may adopt regulations to carry out the provisions of sections 32 to 38, inclusive, of this act.*

Sec. 39. NRS 218A.635 is hereby amended to read as follows:

218A.635 1. Except as otherwise provided in subsections 2 and 4, for each day or portion of a day during which a Legislator attends a presession orientation conference, a training session conducted pursuant to NRS 218A.285 or a conference, meeting, seminar or other gathering at which

the Legislator officially represents the State of Nevada or its Legislature, the Legislator is entitled to receive:

(a) The compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;

(b) The per diem allowance provided for state officers and employees generally; and

(c) The travel expenses provided pursuant to NRS 218A.655.

2. A nonreturning Legislator must not be paid the compensation or per diem allowance and travel expenses provided in subsection 1 for attendance at a conference, meeting, seminar or other gathering unless:

(a) It is conducted by a statutory committee or a legislative committee and the Legislator is a member of that committee; or

(b) The Majority Leader of the Senate or Speaker of the Assembly designates the Legislator to attend because of the Legislator's knowledge or expertise.

3. For the purposes of this section, "nonreturning Legislator" means a Legislator who *:* ~~[, in the year that the Legislator's term of office expires:]~~

(a) *In the year preceding the year in which his or her term expires:*

(1) Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a member of the Senate or the Assembly; *or*

(2) Has withdrawn as a candidate for the Senate or the Assembly; or

(b) ~~[Has]~~ *In the year in which his or her term expires, has* failed to win nomination as a candidate for the Senate or the Assembly at the primary election . ~~[; or~~

~~(c) Has withdrawn as a candidate for the Senate or the Assembly.]~~

4. This section does not apply:

(a) During a regular or special session; or

(b) To any Legislator who is otherwise entitled to receive a salary and the per diem allowance and travel expenses.

Sec. 40. NRS 218D.150 is hereby amended to read as follows:

218D.150 1. Except as otherwise provided in this section, each:

(a) Incumbent member of the Assembly may request the drafting of:

(1) Not more than 4 legislative measures submitted to the Legislative Counsel on or before August 1 preceding a regular session;

(2) Not more than 5 legislative measures submitted to the Legislative Counsel after August 1 but on or before December 10 preceding a regular session; and

(3) Not more than 1 legislative measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.

(b) Incumbent member of the Senate may request the drafting of:

(1) Not more than 8 legislative measures submitted to the Legislative Counsel on or before August 1 preceding a regular session;

(2) Not more than 10 legislative measures submitted to the Legislative Counsel after August 1 but on or before December 10 preceding a regular session; and

(3) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.

(c) Newly elected member of the Assembly may request the drafting of:

(1) Not more than 5 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session; and

(2) Not more than 1 legislative measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.

(d) Newly elected member of the Senate may request the drafting of:

(1) Not more than 10 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session; and

(2) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.

2. A Legislator may not request the drafting of a legislative measure pursuant to subsection 1 on or after the date on which the Legislator becomes a nonreturning Legislator. For the purposes of this subsection, "nonreturning Legislator" means a Legislator who *:* ~~[, in the year that the Legislator's term of office expires:]~~

(a) *In the year preceding the year in which his or her term expires:*

(1) Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a member of the Senate or the Assembly; *or*

(2) Has withdrawn as a candidate for the Senate or the Assembly; or

(b) ~~[Has]~~ *In the year in which his or her term expires, has* failed to win nomination as a candidate for the Senate or the Assembly at the primary election . ~~[; or~~

~~(c) Has withdrawn as a candidate for the Senate or the Assembly.]~~

3. A Legislator may not request the drafting of a legislative measure pursuant to paragraph (a) or (b) of subsection 1 on or after the date on which the Legislator files a declaration or an acceptance of candidacy for election to the House in which he or she is not currently a member. If the Legislator is elected to the other House, any request that he or she submitted pursuant to paragraph (a) or (b) of subsection 1 before filing his or her declaration or acceptance of candidacy for election counts against the applicable limitation set forth in paragraph (c) or (d) of subsection 1 for the House in which the Legislator is a newly elected member.

4. If a request made pursuant to subsection 1 is submitted:

(a) On or before August 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before November 1 preceding the regular session.

(b) After August 1 but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January 1 preceding the regular session.

(c) After a regular session has convened but on or before the 8th day of the regular session at 5 p.m., sufficient detail to allow complete drafting of the legislative measure must be submitted on or before the 15th day of the regular session.

5. In addition to the number of requests authorized pursuant to subsection 1:

(a) The chair of each standing committee of the immediately preceding regular session, or a person designated in the place of the chair by the Speaker of the Assembly or the Majority Leader of the Senate, may request before the date of the general election preceding a regular session the drafting of not more than 1 legislative measure for introduction by the committee in a subject within the jurisdiction of the committee for every 18 legislative measures that were referred to the respective standing committee during the immediately preceding regular session.

(b) A person designated after the general election as a chair of a standing committee for the next regular session, or a person designated in the place of a chair by the person designated as the Speaker of the Assembly or the Majority Leader of the Senate for the next regular session, may request on or before December 10 preceding that regular session the drafting of the remaining number of the legislative measures allowed for the respective standing committee that were not requested by the previous chair or designee.

6. If a request made pursuant to subsection 5 is submitted:

(a) Before the date of the general election preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 10 preceding the regular session.

(b) After the date of the general election but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January 1 preceding the regular session.

7. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

Sec. 41. NRS 281.561 is hereby amended to read as follows:

281.561 1. Except as otherwise provided in subsections 2 and 3 and NRS 281.572, each candidate for public office who will be entitled to receive annual compensation of $6,000 or more for serving in the office that the candidate is seeking, each candidate for the office of Legislator and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which the public officer is serving shall file electronically with the Secretary of State a statement of financial disclosure, as follows:

(a) ~~[A]~~ *Except as otherwise provided in paragraph (b), a* candidate for nomination, election or reelection to public office shall file a statement of

financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph ~~[(b)]~~ *(c)* in the immediately succeeding year, if the candidate is elected to the office.

(b) *If the last day to qualify as a candidate for nomination, election or reelection to public office is established by NRS 293.177 for a candidate, the candidate shall file a statement of financial disclosure on or after January 1 and on or before January 15 of the year in which the election for the office will be held. The statement must disclose the required information for the full calendar year immediately preceding the date of filing.*

(c) Each public officer shall file a statement of financial disclosure on or before January 15 of:

(1) Each year of the term, including the year in which the public officer leaves office; and

(2) The year immediately following the year in which the public officer leaves office, unless the public officer leaves office before January 15 in the prior year.

➥ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which the candidate is required to file a statement pursuant to paragraph ~~[(b)]~~ *(c)* of subsection 1 or subsection 1 of NRS 281.559, the candidate need not file the statement required by subsection 1 for the full calendar year for which the candidate previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements ~~[of Canon 4I]~~ of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.

5. A statement of financial disclosure shall be deemed to be filed on the date that it was received by the Secretary of State.

6. Except as otherwise provided in NRS 281.572, the Secretary of State shall provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section.

7. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.

Sec. 42. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 62I.025, 176.485, 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235 ~~[.]~~ *and section 37 of this act;*

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 and 213.153,

➥ except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for Insurance Premiums is insufficient to pay the claims; and

(d) The payment of claims which are obligations of the State pursuant to NRS 535.030 arising from remedial actions taken by the State Engineer when the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk or a person designated by the Clerk, under such circumstances as it deems appropriate, to approve, on behalf of the Board, the payment of claims from the Reserve for Statutory Contingency Account. For the purpose of exercising any authority granted to the Clerk of the State Board of Examiners or to the person designated by the Clerk pursuant to this subsection, any statutory reference to the State Board of Examiners relating to such a claim shall be deemed to refer to the Clerk of the Board or the person designated by the Clerk.

Sec. 43. Section 1.060 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 313, Statutes of Nevada 1983, at page 756, is hereby amended to read as follows:

Sec. 1.060 Wards: Creation; boundaries.

1. Carson City must be divided into four wards, which must be as nearly equal in population as can be conveniently provided, and the territory comprising each ward must be contiguous.

2. The boundaries of wards must be established and realigned, if necessary, by ordinance, passed by a vote of at least three-fifths of the Board of Supervisors.

3. The Board shall realign any such boundaries on or before ~~[January 1 *September 30]*~~ *October 31 of the year* preceding the next general election at which Supervisors are to be elected, if reliable evidence indicates that the population in any ward exceeds the population in any other ward by more than 5 percent. In any case, the Board shall reconsider the boundaries of the wards upon the receipt of the necessary information from the preceding national decennial census conducted by the Bureau of the Census of the United States Department of Commerce.

Sec. 44. The Secretary of State shall adopt such regulations and prescribe such forms as are required by or necessary to carry out the provisions of:

1. Paragraph (b) of subsection 1 of NRS 293.180, as amended by section 10 of this act, so that the regulations and forms are effective and available for distribution and use on or before August 1, 2015.

2. NRS 293.177, as amended by section 9 of this act, so that the regulations and forms are effective and available for distribution and use on or before ~~[August]~~ September 1, 2015.

~~[2.]~~ 3. Paragraph (a) of subsection 1 of NRS 293.180, as amended by section 10 of this act, so that the regulations and forms are effective and available for distribution and use on or before October 1, 2015.

4. Sections 1 to 8, inclusive, ~~[10]~~ 11 to 30, inclusive, and 41 of this act so that the regulations and forms are effective and available for distribution and use on or before ~~[October]~~ November 1, 2015.

~~[3.]~~ 5. Sections 32 to 38, inclusive, of this act so that the regulations and forms are effective and available for distribution and use on or before July 1, 2017.

Sec. 45. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and prescribing forms; and

2. On July 1, 2015, for all other purposes.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 561 to Senate Bill No. 421 moves the date of the primary election set forth in the bill to the last Tuesday in February.

Since the primary election date is proposed to move forward on the calendar by about one month, the provisions relating to candidate filing, precinct modifications and other election preparations are also moved forward by approximately one month. Also, since the primary election is proposed to be moved, provisions in the bill that would have changed the dates for campaign contribution and expenses reporting have been deleted.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 463.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 498.

SUMMARY—Revises provisions relating to education. (BDR 34-411)

AN ACT relating to education; requiring certain providers of electronic applications used for educational purposes to provide written disclosures concerning personally identifiable information that is collected; requiring such a provider to allow certain persons to review and correct personally identifiable information about a pupil maintained by the provider; limiting the circumstances under which such a provider may collect, use, allow access to or transfer personally identifiable information concerning a pupil; requiring such a provider to establish and carry out a detailed plan for the security of data concerning pupils; requiring teachers and other licensed personnel employed by a school district or charter school to complete certain professional development; requiring certain disciplinary action against a teacher or administrator for breaches in security or confidentiality of certain examinations; providing a civil penalty for certain violations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.25 of this bill declares that it is the public policy of this State to protect the educational records of pupils, including the personally identifiable information contained in such records, and that the provisions of this bill are intended to provide greater protection over such records and information.

Section 5 of this bill requires a school service provider to provide to the board of trustees of a school district or the governing body of a school, as applicable, and a teacher who uses a school service, a written disclosure of: (1) the types of personally identifiable information collected by the school service provider; (2) the manner in which such information is used; (3) a description of the plan for security of data concerning pupils which has been established by the school service provider; and (4) any material change to such a plan. Section 3 of this bill defines the term "school service" to mean an Internet website, online service or mobile application that: (1) collects or maintains personally identifiable information concerning a pupil; (2) is used primarily for educational purposes; ~~[(2) was]~~ (3) is designed and marketed for use in public schools; and ~~[(3)]~~ (4) is used at the direction of teachers and other educational personnel. Section 5 requires a school service provider to: (1) allow certain pupils or the parent or guardian of a pupil to review personally identifiable information about the pupil maintained by the school service provider; and (2) establish a process for making any corrections to such information.

Section 6 of this bill limits the circumstances under which a school service provider may collect, use, allow access to or transfer personally identifiable information concerning a pupil. Section 6 requires a school service provider to delete personally identifiable information concerning a pupil at the request

of ~~[: (1)]~~ the board of trustees of the school district or the governing body of the school, as applicable. ~~[; (2) a teacher of the pupil; (3) a pupil who is at least 16 years of age; or (4) the parent or legal guardian of the pupil.]~~ Section 6 requires any agreement entered into by a school service provider that provides for the disclosure of personally identifiable information to limit the circumstances under which the person or governmental entity to whom the information is disclosed may collect, use or transfer such information to circumstances authorized by law. Section 6 also subjects any school service provider that violates these requirements to a civil penalty.

Section 7 of this bill requires a school service provider to establish and carry out a detailed plan for the security of any data concerning pupils that is collected ~~[,]~~ or maintained ~~[or transferred]~~ by the school service provider. Section 8 of this bill requires each school district and the governing body of a charter school or university school for profoundly gifted pupils, as applicable, to annually provide professional development regarding the use of school service providers and the security of data concerning pupils. Section 8 also requires teachers and other licensed personnel employed by a school district or charter school to annually complete professional development regarding school service providers and the security of data concerning pupils.

Section 8.3 of this bill authorizes a school service provider to use and disclose information derived from personally identifiable information to demonstrate the effectiveness of the products or services of the school service provider. Section 8.5 of this bill prohibits a person or governmental entity from waiving or modifying any right, obligation or liability provided by the provisions of sections 1.5-8.5. Section 8.5 also provides that any condition, stipulation, or provision in a contract that conflicts with the provisions of sections 1.5-8.5 is void and unenforceable.

Existing law authorizes a teacher to be suspended, dismissed or not reemployed and an administrator to be demoted, suspended, dismissed or not reemployed for breaches in security or confidentiality of the questions and answers of certain examinations. (NRS 391.3127) Section 9 of this bill instead requires a teacher to be suspended, dismissed or not reemployed and an administrator to be demoted, suspended, dismissed or not reemployed for such breaches.

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 the provisions set forth as sections ~~[2]~~ 1.25 to ~~[8,]~~ 8.5, inclusive, of this act.

Sec. 1.25. The Legislature hereby finds and declares that it is the public policy of this State to protect the educational records of pupils including, without limitation, the personally identifiable information of pupils and that the provisions of sections 1.5 to 8.5, inclusive, of this act are intended to:

1. Provide greater protection of such records and information;

2. Limit and restrict the collection, transfer and maintenance of such information;

3. Provide greater control of such information to pupils and their parents or guardians;

4. Provide notification to persons and governmental entities regarding the types of personally identifiable information collected and how such information is kept secure;

5. Establish a process for the correction or deletion of any personally identifiable information collected by a school service provider;

6. Prohibit a school service provider from using personally identifiable information to target advertising to minors; and

7. Ensure that teachers and other licensed educational personnel understand how to use school services in a manner that protects personally identifiable information concerning pupils.

Sec. 1.5. As used in sections 1.25 to 8.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2 to 4.5, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 2. *"Personally identifiable information" has the meaning ascribed to it in 34 C.F.R. § 99.3.*

Sec. 3. *1. "School service" means an Internet website, online service or mobile application that ~~[is]~~ :*

(a) Collects or maintains personally identifiable information concerning a pupil;

(b) Is used primarily for educational purposes ~~[and is]~~ ; and

(c) Is designed and marketed for use in public schools and is used at the direction of teachers and other educational personnel.

2. The term does not include an Internet website, online service or mobile application that is designed or marketed for use by a general audience, even if the school service is also marketed to public schools.

Sec. 4. *"School service provider" means a person that operates a school service ~~[.]~~ , to the extent the provider is operating in that capacity.*

Sec. 4.5. "Targeted advertising" means presenting advertisements to a pupil where the advertisement is selected based on information obtained or inferred from the online behavior of a pupil, the use of applications by a pupil or personally identifiable information concerning a pupil. The term does not include advertising to a pupil at an online location based upon the current visit to the location by the pupil or a single search query without the collection and retention of the online activities of a pupil over time.

Sec. 5. *1. Before the persons or governmental entities described in subsection 3 begin using a school service, a school service provider must provide a written disclosure to such persons or governmental entities in language that is easy to understand, which includes, without limitation:*

(a) The types of personally identifiable information collected by the school service provider and the manner in which such information is used ; ~~[,~~ ~~including, without limitation, the persons or governmental entities that have~~

~~*access to the information and the manner in which such information is transferred;]*~~ *and*

(b) ~~*[The]*~~ *A description of the plan for the security of data concerning pupils which has been established by the school service provider pursuant to section 7 of this act.*

2. Before a school service provider makes a material change to the plan for the security of data concerning pupils established pursuant to section 7 of this act, the school service provider must provide notice to the persons or governmental entities set forth in subsection 3.

3. The disclosure or notice provided pursuant to subsection 1 or 2, as applicable, must be provided to:

(a) The board of trustees of a school district, the governing body of a charter school or the governing body of a university school for profoundly gifted pupils, as applicable, that uses the school service of the school service provider; and

(b) Any teacher who uses the school service.

4. A school service provider shall:

(a) Allow a pupil who is at least ~~*[16]*~~ *13 years of age* ~~*[or]*~~ *and the parent or legal guardian of* ~~*[a]*~~ *any pupil to review personally identifiable information concerning the pupil that is maintained by the school service provider; and*

(b) Establish a process , in accordance with any contract governing the activities of a school service provider and which is consistent with the provisions of sections 1.5 to 8.5, inclusive, of this act, for the correction of such information ~~*[, as needed, by:]*~~ *upon the request of:*

(1) A pupil who is at least ~~*[16]*~~ *13 years of age or the parent or legal guardian of* ~~*[a]*~~ *any pupil; or*

(2) ~~*[At the request of a pupil who is at least 16 years of age or the parent or legal guardian of a pupil, the]*~~ *The teacher of the pupil or the board of trustees of the school district in which the school that the pupil attends is located, the governing body of the charter school that the pupil attends or the governing body of the university school for profoundly gifted pupils that the pupil attends, as applicable.*

Sec. 6. *1.* ~~*[A]*~~ *Except as otherwise provided in subsection 2, a school service provider may collect, use, allow access to or transfer personally identifiable information concerning a pupil only:*

(a) For ~~*[the]*~~ *purposes* ~~*[authorized by the]*~~ *inherent to the use of a school service by a teacher* ~~*[of the pupil]*~~ *in a classroom or for the purposes authorized by the board of trustees of the school district in which the school that the pupil attends is located, the governing body of the charter school that the pupil attends or the governing body of the university school for profoundly gifted pupils that the pupil attends, as applicable, so long as it is authorized by federal and state law;*

(b) If required by federal or state law; ~~*[or]*~~

(c) In response to a subpoena issued by a court of competent jurisdiction;

(d) To protect the safety of a user of the school service; or

(e) With the consent of any person required in a policy of the school district, charter school or university school for profoundly gifted pupils, as applicable, or, if none, with the consent of the pupil, if the pupil is at least ~~[16]~~ 13 years of age, or the parent or legal guardian of the pupil ~~[.]~~ if the parent or legal guardian has requested to provide consent before any such action is taken or if the pupil is less than 13 years of age.

2. A school service provider may transfer personally identifiable information concerning a pupil to a third-party service provider if the school service provider provides notice to the appropriate person described in paragraph (e) of subsection 1 and:

(a) Contractually prohibits the third-party service provider from using any such information for any purpose other than providing the contracted school services to, or on behalf of, the school service provider;

(b) Prohibits the third-party service provider from disclosing any personally identifiable information concerning a pupil unless the disclosure is authorized pursuant to subsection 1; and

(c) Requires the third-party service provider to comply with the requirements of sections 1.5 to 8.5, inclusive, of this act.

3. A school service provider shall delete any personally identifiable information concerning a pupil that is collected or maintained by the school service provider ~~[upon the]~~ and that is under the control of the school service provider within a reasonable time not to exceed 30 days after receiving a request ~~[of:~~

~~(a) The~~ from the board of trustees of the school district in which the school that the pupil attends is located, the governing body of the charter school that the pupil attends or the governing body of the university school for profoundly gifted pupils that the pupil attends, as applicable . ~~[;~~

~~(b) A teacher of the pupil;~~

~~(c) A pupil who is at least 16 years of age; or~~

~~(d) The parent or legal guardian of a pupil.~~

~~3.]~~ The board of trustees or the governing body, as applicable, must have a policy which allows a parent or legal guardian of a pupil to request that such information about the pupil be deleted. The school service provider shall delete such information upon the request of the parent or legal guardian of a pupil if no such policy exists.

4. Any agreement entered into by a school service provider that provides for the disclosure of personally identifiable information must require that the person or governmental entity to whom the information will be disclosed abide by the requirements imposed pursuant to this section.

~~[4.]~~ 5. A school service provider shall not:

(a) Use personally identifiable information ~~[for any commercial purpose, including, without limitation, selling the]~~ to engage in targeted advertising.

(b) Except as otherwise provided in this paragraph, sell personally identifiable information ~~[or using the information to market products or services to pupils;~~

~~(b)]~~ concerning a pupil. A school service provider may provide personally identifiably information concerning pupils to an entity that purchases, merges with or otherwise acquires the school service and the acquiring entity becomes subject to the requirements of sections 1.5 to 8.5, inclusive, of this act.

(c) Use personally identifiable information concerning a pupil to create a profile of the pupil without the consent of ~~[:~~

~~(1) The pupil, if he or she is at least 16 years of age;~~

~~(2) The parent or legal guardian of the pupil;~~

~~(3) The teacher of the pupil; or~~

~~(4) The board of trustees of the school district in which the school that the pupil attends is located, the governing body of the charter school that the pupil attends or the governing body of the university school for profoundly gifted pupils that the pupil attends, as applicable;~~

~~(c)]~~ the appropriate person described in paragraph (e) of subsection 1. For the purposes of this paragraph, "creating a profile" does not include collecting or retaining account registration records or information that remains under the control of the pupil if he or she is at least 13 years of age, the parent or legal guardian of any pupil, the teacher of the pupil or the board of trustees of the school district in which the school that the pupil attends is located, the governing body of the charter school that the pupil attends or the governing body of the university school for profoundly gifted pupils that the pupil attends, as applicable.

(d) Use personally identifiable information concerning a pupil in a manner that is inconsistent with any ~~[privacy policy established by]~~ contract governing the activities of the school service provider for the school service in effect at the time the information is collected ~~[;]~~ or

~~[(d)]~~ in a manner that violates any of the provisions of sections 1.5 to 8.5, inclusive, of this act.

(e) Knowingly retain, without the consent of ~~[a pupil who is at least 16 years of age or the parent or legal guardian of a pupil,]~~ the appropriate person described in paragraph (e) of subsection 1, personally identifiable information concerning ~~[the]~~ a pupil beyond the period authorized by the ~~[teacher of the pupil or the board of trustees of the school district in which the school that the pupil attends is located, the governing body of the charter school that the pupil attends or the governing body of the university school for profoundly gifted pupils that the pupil attends, as applicable.~~

~~5.]~~ contract governing the activities of the school service provider.

6. This section does not prohibit the use of ~~[the]~~ personally identifiable information ~~[of]~~ concerning a pupil that is collected or maintained by a school service provider for the purposes of:

(a) ~~[Adapting the presentation of educational material according to the needs of the pupil in a classroom of a public school in which the teacher uses a school service; or]~~ Adaptive learning or providing personalized or customized education;

(b) Maintaining or improving the school service ~~[.~~ ~~6.]~~ ;

(c) Recommending additional content or services within a school service;

(d) Responding to a request for information by a pupil;

(e) Soliciting feedback regarding a school service; or

(f) Allowing a pupil who is at least 13 years of age or the parent or legal guardian of any pupil to download, transfer, or otherwise maintain data concerning a pupil.

7. A school service provider that violates the provisions of ~~[subsection 1 or 4]~~ this section is subject to a civil penalty in an amount not to exceed $5,000 per violation. The Attorney General may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

Sec. 7. *1. A school service provider shall establish and carry out a detailed plan for the security of any data concerning pupils that is collected ~~[,]~~ or maintained ~~[or transferred]~~ by the school service provider. The plan must include, without limitation:*

(a) Procedures for protecting the security, privacy, confidentiality and integrity of personally identifiable information ~~[;]~~ concerning a pupil; and

(b) Appropriate administrative, technological and physical safeguards to ensure the security of data ~~[.]~~ concerning pupils.

2. A school service provider shall ensure that any successor entity ~~[will]~~ understands that it is subject to the provisions of sections 1.5 to 8.5, inclusive, of this act and agrees to abide by all privacy and security commitments related to personally identifiable information concerning a pupil collected and maintained by the school service provider before allowing a successor entity to access such personally identifiable information.

Sec. 8. *1. Each school district and the governing body of a charter school or a university school for profoundly gifted pupils, as applicable, shall annually provide professional development regarding the use of school service providers and the security of data concerning pupils.*

2. Teachers and other licensed educational personnel employed by a school district , ~~[or]~~ charter school or university school for profoundly gifted pupils shall complete the professional development provided pursuant to subsection 1.

Sec. 8.3. A school service provider may use and disclose information derived from personally identifiable information concerning a pupil to demonstrate the effectiveness of the products or services of the school service provider, including, without limitation, for use in advertising or marketing regarding the school service so long as the information is aggregated or is

presented in a manner which does not disclose the identity of the pupil about whom the information relates.

Sec. 8.5. A person or governmental entity may not waive or modify any right, obligation or liability set forth in sections 1.5 to 8.5, inclusive, of this act. Any condition, stipulation or provision in a contract which seeks to do so or which in any way conflicts with the provisions of sections 1.5 to 8.5, inclusive, of this act is against public policy and is void and unenforceable.

Sec. 9. NRS 391.31297 is hereby amended to read as follows:

391.31297 1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

(a) Inefficiency;

(b) Immorality;

(c) Unprofessional conduct;

(d) Insubordination;

(e) Neglect of duty;

(f) Physical or mental incapacity;

(g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;

(h) Conviction of a felony or of a crime involving moral turpitude;

(i) Inadequate performance;

(j) Evident unfitness for service;

(k) Failure to comply with such reasonable requirements as a board may prescribe;

(l) Failure to show normal improvement and evidence of professional training and growth;

(m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;

(n) Any cause which constitutes grounds for the revocation of a teacher's license;

(o) Willful neglect or failure to observe and carry out the requirements of this title;

(p) Dishonesty;

(q) ~~[Breaches in the security or confidentiality of the questions and answers of the examinations that are administered pursuant to NRS 389.550 or 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807.~~

~~(r)]~~ Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations and assessments adopted pursuant to NRS 389.616 or 389.620;

~~[(s)]~~ *(r)* An intentional violation of NRS 388.5265 or 388.527;

~~[(t)]~~ *(s)* Gross misconduct; or

~~[(u)]~~ *(t)* An intentional failure to report a violation of NRS 388.135 if the teacher or administrator witnessed the violation.

2. *If a teacher or administrator breaches the security or confidentiality of the questions and answers of the examinations that are administered pursuant to NRS 389.550 or 389.805 or the college and career readiness assessment administered pursuant to NRS 389.807, the board of trustees of a school district, governing body of a charter school or governing body of a university school for profoundly gifted pupils, as applicable, shall:*

(a) Suspend, dismiss or fail to reemploy the teacher; or

(b) Demote, suspend, dismiss or fail to reemploy the administrator.

3. In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

~~[3.]~~ *4.* As used in this section, "gross misconduct" includes any act or omission that is in wanton, willful, reckless or deliberate disregard of the interests of a school or school district or a pupil thereof.

Sec. 10. NRS 391.313 is hereby amended to read as follows:

391.313 1. Whenever an administrator charged with supervision of a licensed employee believes it is necessary to admonish the employee for a reason that the administrator believes may lead to demotion or dismissal or may cause the employee not to be reemployed under the provisions of NRS 391.31297, the administrator shall:

(a) Except as otherwise provided in subsection 3, bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to the employee's demotion, dismissal or a refusal to reemploy him or her, and make a reasonable effort to assist the employee to correct whatever appears to be the cause for the employee's potential demotion, dismissal or a potential recommendation not to reemploy him or her; and

(b) Except as otherwise provided in NRS 391.314, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

➥ The admonition must include a description of the deficiencies of the teacher and the action that is necessary to correct those deficiencies.

2. An admonition issued to a licensed employee who, within the time granted for improvement, has met the standards set for the employee by the administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

3. An administrator need not admonish an employee pursuant to paragraph (a) of subsection 1 if his or her employment will be terminated pursuant to NRS 391.3197.

4. A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.311 to 391.3197, inclusive, without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h), (p) and ~~[(t)]~~ *(s)* of subsection 1 of NRS 391.31297.

Sec. 11. NRS 391.3161 is hereby amended to read as follows:

391.3161 1. Each request for the appointment of a person to serve as a hearing officer must be submitted to the Superintendent of Public Instruction.

2. Within 10 days after receipt of such a request, the Superintendent of Public Instruction shall request that the Hearings Division of the Department of Administration appoint a hearing officer.

3. The State Board shall prescribe the procedures for exercising challenges to a hearing officer, including, without limitation, the number of challenges that may be exercised and the time limits in which the challenges must be exercised.

4. A hearing officer shall conduct hearings in cases of demotion, dismissal or a refusal to reemploy based on the grounds contained in ~~[subsection]~~ *subsections* 1 *and 2* of NRS 391.31297.

5. This section does not preclude the employee and the superintendent from mutually selecting an attorney who is a resident of this State, an arbitrator provided by the American Arbitration Association or a representative of an agency or organization that provides alternative dispute resolution services to serve as a hearing officer to conduct a particular hearing.

Sec. 12. The provisions of ~~[section 6]~~ sections 1.5 to 8.5, inclusive, of this act:

1. Apply to any agreement entered into, extended or renewed on or after July 1, 2015, and any provision of the agreement that is in conflict with that section is void.

2. Apply on July 1, 2018, to any agreement entered into before July 1, 2015.

Sec. 13. 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. 14. This act becomes effective on July 1, 2015.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

Amendment No. 498 to Senate Bill No. 463 sets forth a Legislative declaration specifying that it is the public policy of this State to protect the educational records of pupils, including personal identifiable information (PII) of the pupil; clarifies that a regulated service is one that collects PII; changes the age of pupil consent, for purposes of this bill, from 16 to 13, consistent with federal law prohibits targeted advertising and the sale of PII; allows the transfer of PII with certain limitations, and only after certain notifications; allows aggregated or de-identified pupil information to be used for limited purposes; provides that the board of trustees must have a policy which allows a parent or guardian to request that PII be deleted; prohibits a person or governmental entity from modifying the provisions of this bill through a separate contract; deems any information about a pupil collected by a publicly-funded education entity to be the property of the pupil, or their parent or guardian; and provides other clarifying changes.

Amendment adopted.
Bill ordered reprinted, engrossed and to third reading.

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

Senate in recess at 3:09 p.m.

SENATE IN SESSION

At 3:12 p.m.
President Hutchison presiding.
Quorum present.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Atkinson, the privilege of the floor of the Senate Chamber for this day was extended to Isabella Ernaut.

On request of Senator Kieckhefer, the privilege of the floor of the Senate Chamber for this day was extended to Robert Kieckhefer.

On request of Senator Smith, the privilege of the floor of the Senate Chamber for this day was extended to Students from Our Lady of the Snow: Benton Acosta, Cort Ballinger, Isabella Banales, Ian Bankhead, Ava Bell, Camryn Berg, Shea Bibee, Joshua Botello, Anthony Bruno, Benjamin Brust, Jackson Bryan, Juliana Bryan, Conner Capurro, Cody Chapman, Tara Chilton, Ethan Collinsworth, Olivia Daly, Joshua D'Andrea, Kyrie DeBord, Brayden deBruin, Gabrielle deJong, Jennifer Dietsch, Riley Dion, Abel Duke, Mikaela Echo, Jenna Eissmann, Peter Ernaut, Jeno Faretto, Lauren Faretto, Jessica Farley, Joseph Ferro, Matthew Festa, Sean Festa, Nicholas Flocchini, Kathleen Fralick, Riley Franklin, Kolton Frugoli, Alexandra Gorman, Mallory Hart, Jake Higgins, Jillian Hinxman, Kenna Holt, Benjamin Hummel, Cameron Hummel, Keri Joanis, Kendall Knuf, Owen Koch, Luke Larragueta, Lyndsey Leone, Grace Maher, Dominic Matteoni, Colin McCrorey, Joshua Menante, Landon Murray, Ellen Nutter, McKenna Owen, Garrett Pane, Olivia Pane, Ian Paterson, Maxmillian Porter, Tyler Rahimzadeh, Sarah Rawlins, Mateo Reviglio, Anne Marie Ring, Sage Schula, Shayna Schula, Hannah Schultz, Brynn Sedar, Sopie Shappell, Nicolas Shawa, James Shoen, Danielle Shumard, Samuel Stewart, Johanna Stone, Rachel Joanne Quiara Tabbada, Abbie Tate, Josephine Vaughn, Adam Vossen, Paul Vossen, Jacob Wenzel, Preston White, Jack Woodhead, Kylie Wornardt, Gianna Zaccheo, Jacob Zerby and Luc Zwyssig.

Senator Roberson moved that the Senate adjourn until Monday, April 20, 2015, at 10:30 a.m.
Motion carried.

Senate adjourned at 3:14 p.m.

Approved:

MARK A. HUTCHISON
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate